DOCUMENT RESUME

ED 401 565 CS 215 573

TITLE	Proceedings of the Annual Meeting of the Association for Education in Journalism and Mass Communication (79th, Anaheim, CA, August 10-13, 1996). Communication Technology and Policy Division.
INSTITUTION	Association for Education in Journalism and Mass Communication.
PUB DATE	Aug 96
NOTE	319p.; For other sections of these proceedings, see CS 215 568-580.
PUB TYPE	Collected Works - Conference Proceedings (021)
EDRS PRICE	MF01/PC13 Plus Postage.
DESCRIPTORS	Adoption (Ideas); Audience Analysis; Communication Research; Electronic Text; Higher Education; Information Sources; *Internet; Journalism Research; *Mass Media Use; Microcomputers; *Newspapers; News Writing; *Policy Formation; *Technological Advancement; Television; Use Studies; Videotape Recordings
IDENTIFIERS	Communications Decency Act 1996; Journalists

ABSTRACT

The communication technology and policy section of the Proceedings contains the following 11 papers: "The Battle for the Net Frontier: Technology and Policy in an Age of Hype and Sensationalism" (Jan H. Samoriski); "Uses and Gratifications of the World Wide Web" (Barbara K. Kaye); "Comparing Consumer Feedback Channels: Newspapers versus Television" (Wayne Wanta and others); "Digitized Source Materials for News Stories: How Do Digital Technologies Affect Media Routines?" (David R. Thompson); "Do Quotes Affect Perception of Online News Stories?" (S. Shyam Sundar); "Changes and Consistencies: Newspaper Journalists Contemplate an Online Future" (Jane B. Singer); "The Communications Decency Act: A Call to Keep a User-Friendly Environment" (Justin Brown); "New Technologies in the American Oval Office and the Canadian Prime Minister's Office" (Betty Houchin Winfield and Michael Antecol); "The Fair Use of Video Clips in Electronic Publications on the World Wide Web" (Quint B. Randle); "Personal Computer Adoption and Internet Use" (Carolyn A. Lin); and "The Myth of a Technological Solution to Television Violence: Identifying Problems with the V-Chip" (Greg Makris). Individual papers contain references. (RS)

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The Battle for the Net Frontier:
Technology and Policy in an Age of Hype and Sensationalism

Jan H. Samoriski
Assistant Professor of Communication
The University of Michigan-Dearborn

jsamori@umich.edu

Selected for presentation in the Communication Technology and Policy Division of the Association for Education in Journalism and Mass Communication Annual Convention, August 13, 1996, Anaheim, California.

The Battle for the Net Frontier:

Technology and Policy in an Age of Hype and Sensationalism

Abstract

This study explores the two conflicting perceptions of reality that appear to characterize the Internet and World Wide Web. Through the discourse created by different industry players, the author compares the hype and sensationalism of the Net with its technological and policy reality. The study concludes a perceptual gap between the two realities has resulted in a policy paradox that threatens the way the Net is understood and regulated.

The Battle for the Net Frontier:

Technology and Policy in an Age of Hype and Sensationalism

Introduction

Over the past year the rapid growth of the Internet and World Wide Web (the Net) has attracted a great deal of interest as users, entrepreneurs, and scholars attempt to navigate and make sense of the Net's popularity. From its beginnings as a network used primarily by government and academia, the Net quickly evolved into a new media phenomenon that most Americans believe is "the wave of the future" (Miller, 1995, D1). Within the communications industry the Net has become the center of attention in a competitive struggle between industry players seeking to frame the Net's future in terms that will work to their advantage. As interest in the on-line world has grown, so has the importance of the technological and policy issues that flank the Net frontier.

Within the discourse there appear to be two conflicting perceptions of the reality of the Net that frame what can be characterized as a battle for the Net frontier. In one realm is the popular conception of the Internet and World Wide Web fueled by the hype and sensationalism created by the different players. On the other is the reality of the telecommunications environment that more accurately reflects the technical and policy attributes of the nation's developing National Information Infrastructure (NII). Between the two is a lively discourse that, in addition to providing clues as to the player's agendas, is also actively shaping the policy environment that will determine the Net's future. The following is an exploration of that discourse aimed at shedding light on the dynamics behind the policy process currently shaping the Net.

This paper is divided into three main sections. Following a brief introduction and review of regulatory theory, the first section will demonstrate the ability of discourse to determine policy (Streeter, 1987) and explain why the current Net discourse may be of importance in explaining the present and future regulatory environment of the Net. The second section will compare the hype with the reality of the Net in the context of the discourse of five of the communications industry's principle players. The last section will discuss the implications of the discourse.

Regulatory Policy and the Net

When the Clinton Administration unveiled "The National Information Infrastructure: Agenda for Action," in September 1993, the Internet, as it existed at that time, was relatively unheard of. The emergence of the term "Information Superhighway" had little meaning because people had no idea of what the highway was nor what it was supposed to do. The Internet became the defacto highway and its "Information Superhighway" designation, with the help of media hype, gained new meaning for millions of new users who, over the next two years, helped drive the Net's phenomenal growth. Metaphorical references to on-ramps, off-ramps and a host of other terms quickly followed.

The Clinton Administration's Telecommunications Policy Reform Initiative, which evolved into the Telecommunications Act of 1996 through the legislative process, was big on rhetoric but contained little detail when it came down to how the Administration was going to achieve its goals of encouraging private investment, promoting and protecting competition, providing public access to the NII, preserving and advancing universal access, and ensuring flexibility so that any resultant regulatory framework would keep pace with technological and market changes. In addition, there were few illustrations of what the NII was going to do to help address some of the country's pressing social problems, nor were there specific examples of the technology at work. The Administration's initiative described the construction of an advanced NII in optimistic terms as something that would "help unleash an information revolution that will change forever the way people live, work, and interact with each other" (The National Information Infrastructure: Agenda for Action, 1993, p.1).

Three years later the Telecommunications Act of 1996 relaxed regulation in the telecommunications industry by encouraging competition in broadcasting, cable, and telephone which Congress hoped would benefit the public by producing lower prices, new jobs and innovative services. The Act increased broadcast ownership limits and relaxed ownership rules, extended broadcast license terms, deregulated some CATV rates, and, perhaps most importantly, removed barriers to allow telephone and cable companies to provide programming and service in areas that the law had previously kept them from entering. Other provisions of the Telecommunications Act were add-ons that included the V-chip to address sex and violence on television and the Communications Decency Act to address indecency on the Internet. As a reform package, the Telecommunications Act turned the development of the NII over to private industry. The Administration had embarked on a policy of unregulation in order to let the mechanisms of the market take care of building an infrastructure to link the nation.

Theoretical Approaches to Government Regulation

The policy literature contains numerous theories that have been used to explain government regulation of the communications industry from a variety of perspectives. A review of some of the major perspectives would include Horwitz (1989), who categorized regulatory theories into five groups: public interest theory, regulatory failure or perverted public interest theory, conspiracy theory, organizational behavior theory, and capitalist state theory. Bernstein (1955) suggested that regulatory agencies go through regulatory cycles. Kolko (1963) looked at how conspiracy by the regulated industry played a role in the regulatory process. Stigler (1971) proposed an economic theory of regulation in which he argued that industries seek regulation that is designed and operated for their benefit.

Arnall and Mead (1984) proposed three models to show how the Federal Communications can be understood as a combination rational actor, organization, and political actor at the same time. Capitalist state theory attempts to explain regulatory decision making in terms of how the state initiates policies that sustain the capitalist system. In developing a political perspective on communications policy and regulation, Mosco (1988) used state theory in an attempt to come to a better understanding of how the regulatory process occurs.

Multiple model or synthesized theories of regulatory behavior include Krasnow and Longley's (1982) pluralist explanation of regulatory decision making as the result of interaction in the political environment in which multiple actors determine who gets what out of the policy process. Dutton (1992) framed the communications policymaking process metaphorically, comparing it to what he described as an ecology of games. Sabatier and Pelkey (1987) proposed a framework for explaining the regulatory policymaking process based on advocacy coalitions. Horwitz (1989) proposed a theory of regulation that recognized the evolution of three different types of regulatory bodies that corresponded to three historical periods. Similarly, Eisner (1993) explained changes in regulatory policymaking as the result of transitions in regulatory politics. Noll (1984) provided a multi-disciplinary survey and synthesis of government regulatory behavior and suggested that dissatisfaction with the performance of a regulated industry could lead to one of four types of reform proposals.

Since there is no regulatory agency overseeing the development of the Net, most theories that conceptualize policy theory in the context of a regulatory agency are hard to apply. The newness of the Net environment and the way in which the communications industry has been unregulated makes it difficult to place the current players in relationship to each other using existing theories, unless it is done historically. The regulatory landscape that was created by the Telecommunications Act of 1996 is unique in that it presents a combination of players, technology, and opportunity that has never existed before. It is also difficult to locate the role of government because instead of regulating, the government have removed regulatory barriers. Economically, all the industries have large stakes in the outcome of policy decisions. Some may have more clout than others, however, how that influence plays out in an arena that was designed to be competitive through deregulation remains to be determined. Theories that suggest regulatory epochs or regimes are useful in explaining regulatory behavior, but more so in retrospect.

Mapping the different interests requires an examination of where the industries are positioned and what they are saying. Of particular utility in explaining the current stage of the Net's development are theories that examine the regulatory environment in terms of discourse. Examining discourse in this analysis is especially useful because of the appearance of a discourse that does not appear to represent the reality it is supposed to describe.

Streeter (1987) illustrated how discourse defines policy. In the case of cable television, Streeter explained how the way in which cable television was discussed ultimately became the way it was understood and regulated. By studying the various discourses that define how a technology is presented and perceived, Streeter said media scholars can gain insight into the policy process, which is the focus of this study.

Streeter argued that from 1966 to 1970, the dialogue associated with cable television affected developments in media policy. As a result, a whole new conceptualization of the industry was born, which in turn was reflected in the way policy makers regarded other new media technologies. Streeter said the discourse made a noticeable difference in the growth and development of cable television. One result of the discourse was the creation of the appearance of consensus where there was none. Although different groups had separate, and sometimes conflicting interests when it came to what they expected from the policy process, no one group dominated the result. Compromise between the competing interests created a sense of urgency about the cable issue. In the end, the discourse did not at all describe the cable institution that it was supposed to depict, it simply drew attention to it.

At the heart of the "cable fable," as Streeter referred to it, was the portrayal of cable television (Streeter, 1987, p. 174). Cable television, if allowed to develop, was described as a technological panacea whose benefits would reach into homes from coast to coast. The CATV discourse found its way into studies and reports of the era under a variety of themes which painted a picture of cable as an innovative, new technology with an identity of its own. Cable's real personality was disguised behind a facade of what Streeter described as a "technological revolution" (Streeter, 1987, p. 178) that did not include cable television's larger social context. Streeter illustrated how the discourse created gaps in the cable fable and the impression that CATV would promote pluralism and empower those who had fallen by the wayside in a cold, bureaucratic state.

Connecting Discourse and Policy

The connection between discourse and policy is illustrated by the legislative response to what the public perceived as a serious social problem with the exposure of children to sexual and violent material on television, and through the availability of pornography on the Internet and World Wide Web. Some studies blame the decay of morality in society and increases in crime on sex and violence in the media, particularly when it comes to children and TV violence (Mortimer, 1994). Research undertaken because of the emergence of a public discourse on the issue of sex and violence on television helped focus attention on a situation that television itself was reluctant to cover. When the discourse became so loud that it could no longer be ignored, Congress, despite its need to rely on the media to get re-elected, had to take notice.

In reacting to public sentiment about sex and violence on television, Congress drafted the V-chip provision into the Telecommunications Act of 1996, citing a number of factors legislators said contributed to the problem. Among the factors were research findings that supported Congressional beliefs that television did influence the behavior of children because of its pervasiveness in society and that the influence, particularly when it came to violent behavior, caused children to believe that violent behavior was acceptable. The same applied, said Congress, to the casual treatment of sexual material on television (Telecommunications Act of 1996, Subtitle B, Section 551).

In the case of pornography and the Internet, the discourse intensified when *Time* magazine published a cover story about the popularity of Cyberporn, which the story said had become "pervasive and surprisingly perverse" on the Internet (Elmer-Dewitt, 1995a, p. 38). The story, based on information attributed to research conducted at Carnegie Mellon University entitled, "Marketing Pornography on the Information Superhighway," painted what critics said was an exaggerated picture of pornography and the Net (Elmer-Dewitt, 1995b). Among the study's findings were claims that on-line porn had become very popular, profitable and that porn could be found practically everywhere on the Net.

Controversy quickly enveloped the study when critics expressed concern over the source of some of the statistics the study used, which were said to be misleading. Questions about the credibility of the study's lead researcher, Carnegie Mellon undergraduate Marty Rimm, surfaced when damaging evidence came to light about the integrity of Rimm's past writing projects. The debate became highly charged on and off the Internet, ending up in what the magazine later termed a "full-blown and highly political conflagration (Elmer-Dewitt, 1995a, p. 57). *Time* published an article three weeks later explaining the controversy over its initial cover story, but admitted no fault for neglecting to check the accuracy of the research before publishing it.

The implications of the *Time* Cyberporn piece are clear in that the story helped focus attention on the Internet despite the story's questionable validity. Six months later the Computer Decency Act and V-chip legislation became law. Throughout the period there were two realities. One reflected the hype and sensationalism that surrounded pornography and the Internet in, for example, the Carnegie Mellon finding that 83.5% of Usenet newsgroups are pornographic. The reality was much smaller. Critics said the figure was less than one half of 1% (Elmer-DeWitt, 1995a, p. 57). Yet Congress, the public and other media outlets that took a cue from the *Time* cover story helped draw attention to the Cyberporn issue. Other media accounts followed. The discourse, although it was less than accurate, had an influence on the legislative response.

Today's Net is in many ways similar to the cable industry between 1966-1970. The Net is a new media technology that is not well understood in a new technological and policy environment that most people, including those in government and industry, seem to know little about. Like the Blue Sky era of the cable industry, there is a lot of hype behind the Net, which makes an examination of the Net discourse a good place to start a search for clues as to what lies ahead. In the next section, five of the principal players in the battle for the Net frontier will be discussed. These will include, in order, the conventional print and broadcast media followed by the cable television industry, the telephone industry and, finally, the computer industry. In each case the popular perception created by the discourse will be compared with the reality.

The Discourse of the Net

The Print & Broadcast Media

> Not everyone in the media has much understanding of what it [Internet mania] means, but there is a strong feeling that it means something. Since the media hate to think of themselves as behind the times, newspaper pages and television hours are full of the Internet. The mere word is enough to guarantee space (Gordon, 1995).

The coverage that the Internet has received in the media over the past year or two has been remarkable. Internet-related stories have received high profile coverage, particularly when the subject involves computer crime or pornography. From the case of University of Michigan undergrad Jake Baker who was charged with publishing a violent sex fantasy on the Internet, to the fanfare surrounding Microsoft's release of Windows 95, the media has taken a special interest in Net topics. The business pages now profile Internet-related companies such as Netscape and market analysts watch the progress of communications stocks with great interest. Not surprisingly, advertising has followed Internet mania. Ads for computers, modems, software and Internet Access Providers (IAP) once rare in the mainstream media are now common.

Many newspapers have created Web pages to complement their daily editions, devoted space to regular columns and developed listings of hot Web sites. E-mail addresses have appeared alongside regular addresses and fax and telephone numbers where readers can send letters to the editor. USA Today conferred status on the Internet when it devoted an entire section to it complete with full page advertising

(*Promise of the Internet*, 1995).

Television coverage of the Net has been similarly inspired. In addition to high profile stories about computer crime and pornography, the Internet feature has also become popular. Attracted to the unusual or bazaar, reporters have found that Net stories are easily adapted to the minute-and-a-half packaging constraints of a newscast. Stories about unusual Web pages, on-line romances or new applications of Internet technology to, for example, education, are visual, interesting, and most importantly, cute. Full-length television programs such as *Cyberlife*, *Next Step* and *C/Net* devote themselves to computers, the Net and new technology (TVWeek, 1996). The Networks have created Web pages to promote their schedules, especially during ratings sweeps (Stanley, 1995). Many radio and television stations have established a presence on the Net to offer additional information about programming, sports scores, weather forecasts and even job listings (www.wdiv.com, 1996).

Stories about the coming of Desktop Broadcasting (Atwood, 1996), Television on the Net (Traiman, 1996), and Internet Radio Broadcasting (Block, 1996), backed by industry-sponsored research promise to change the broadcast industry. The discourse is upbeat and optimistic as if written by public relations consultants, rather than reporters. Desktop broadcasting, for example, is "poised to have a major impact on the way we see and hear radio and TV in the near future" (Atwood, 1996, p. 79).

While the Internet hype may seem the heaviest on the established print and broadcast mediums, both have, potentially, the most to lose in the battle for the Net frontier. Existing media have historically done poorly when new technologies have appeared. Such was the case when radio came into a world dominated by newspapers. Similarly, television eclipsed radio. Later, the cable industry threatened the television industry. Both the television and newspaper industries are in the midst of declines. In the case of television, the Network share of the viewing audience has fallen to all-time regular season lows (McClellan, 1995). A corresponding drop has occurred in television station profits.

The future of the television industry has been placed in further jeopardy by doubts about high-definition television. The transition to digital television presents more than technical problems for many financially strapped stations faced with the task of making the conversion. In addition to the expensive proposition of having to digitally upgrade everything in the broadcast chain from cameras to transmitters, broadcasters are caught in a policy battle with Congress. Congressional proposals to auction spectrum to broadcasters while stations make the transition to digital television have met with strong opposition. Broadcasters say they cannot afford to buy digital spectrum and continue to provide free television (Stern, 1996a).

Newspapers have seen a long-term decline in circulation figures, especially within the younger demographic groups that newspapers will need in the years ahead to shore up readership (Garneau, 1994). Already troubled by rising production costs, particularly the price of newsprint, the newspaper is also squeezed, like its media counterparts are, in an advertising climate where more advertising outlets are competing for a limited number of advertising dollars. In a digital world, newspapers fear "being stuck on Main Street when the information superhighway roars through town" (Garneau, 1994, p.11).

Of the media that have had to face new technologies, the newspaper industry has particular reason to be gun shy about the Internet. During the 1980's, a number of newspaper chains, including Knight-Ridder and Times-Mirror, invested millions of dollars into the development of videotext (Rogers, 1986). The newspaper industry, with the resources already in place to provide videotext programming, thought that readers would readily adapt to a new delivery system. For a variety of reasons videotext failed and the mistake cost the industry dearly.

Cable Television

> This year "marks another revolutionary year in cable's history," [National Cable Television President] Anstrom said, adding that the [Telecommunications] act "has unleashed powerful new competitive forces that will bring significant changes to the way we live, the way we work and the way we learn" (Littleton, 1996).

The cable television industry's enthusiasm for the Net is glowing. With coaxial cable linking nearly the entire country, the cable industry sees itself as a front runner in the battle to become the logical choice to provide broadband service to millions of present and potential customers. In its head-to-head competition with the broadcast industry for viewers, cable has done very well. For years cable has been steadily gaining ground on the commercial television network's share of the viewing audience. By 1997, one study predicts that more people will be watching cable than ABC, NBC and CBS combined on a given evening (Bash, 1996).

At the heart of the cable industry's optimism is the two-way cable modem, a set-top device that will facilitate Internet connections in the 10 to 30 megabit-per-second range, dwarfing the 28.8 kilobit speed of most phone-based modems (Brown & Tedesco, 1996). In addition to regular cable television which continues to expand with the addition of dozens of new cable networks, the cable industry has its sights set on delivering digital TV and telephony.

The passage of the Telecommunications Act of 1996, besides removing barriers to the cable industry's entry into the telephone business, also represents a reprieve from the seemingly haphazard way that the industry was regulated under reform legislation in 1984 and 1992. Seizing the opportunity to improve its image and reach out and tap additional markets, the industry has invested billions of dollars into new technology, including fiber-enhanced delivery systems (Brown, 1996). The industry has also worked to improve service through advertising and service guarantees, promising to, among other things, "reinvent" cable (Littleton, 1996).

The reality is that there are technical problems with two-way cable modems, the centerpiece of the cable industry's Net plan. Because cable coax was designed to handle video in one direction, the lines are subject to electronic interference when they are used to transmit in the other direction from signals created by radios, dryers, and even Christmas tree lights (Hutheesing, 1996). Assuming the interference can be solved, a more serious interface problem remains.

Unlike telephone lines, cable lines are shared, in some cases by hundreds of homes. As long as only a limited number of Net users are using the cable to send and retrieve data, the system works fine because there is still plenty of bandwidth left for the cable television signals. But as use goes up, bandwidth goes down and data transmission speeds drop significantly. Engineers are working on new methods for compressing data, but industry observers say it will be some time before the technology reaches the point where it will overcome the current limitations. Unfortunately, the cable industry has made promises that it suddenly finds it is having a tough time living up to (Brown & Tedesco, 1996).

Cable modem standards had yet to be established by late spring 1996, interactive television was being described as a technology without a business, and two-way capacity--the ability to send and receive data at full speed in both directions--had only reached 20% (Brown & Tedesco, 1996). The costs associated with converting existing cable to handle the wide bandwidths required for television and data transmission are estimated to be as high as $1,000 per cable household. For large cable operators like Tele-Communications, Inc., with millions of subscribers, the cost will run into billions of dollars (Hutheesing, 1996). Within the industry, concern about promise vs. performance is also mounting (Brown & Tedesco, 1996).

Once the cable industry overcomes the technical problems associated with two-way cable modems, it still has to contend with competition from direct broadcast satellite (DBS). Direct-to-home satellite TV system sales were up 41% in 1995 (Satellite systems soar, 1996), much higher than anyone expected. DBS has made inroads into the cable industry's customer base with two services, USSB and Direct TV, already delivering digital audio and video to subscribers.

The Telephone Industry

The Telecommunications Act of 1996, much like it removed regulatory barriers in the cable industry so cable companies could provide telephone service, removed barriers in the telephone industry which allow telephone companies (telcos) to provide video programming in their own service areas. Under the new law telcos can choose to be regulated as a cable system, a common carrier or a newly created open video system. In effect, the law places telephone companies under some of the same rules that cable systems must follow.

The telephone industry's reply to the cable modem is ADSL (asymmetrical digital subscriber line) and ISDN (integrated services digital network), engineering terms for technology capable of delivering high-speed data and video over conventional telephone lines. The telephone industry has an advantage over the cable industry when it comes to promising and delivering high speed Internet access to its customers.

The telephone system, unlike the cable system, is a switched system. Simply explained, a switched system allows the telephone company to route video, like it does phone calls, thereby creating what the industry analogously calls "video dialtone" (VDT). With video dialtone, customers will be able to dial-up video and receive hundreds of digital TV channels in addition to telephone and computer services (Phone Home, 1996). The infrastructure of the telephone system is also highly developed. Whereas only about three-quarters of those who have cable available to them subscribe, nearly everyone has telephone service. While the transmission rates currently offered by telephone technology are slower than what cable modems can provide, the rates are guaranteed (Tedesco, 1996). Unlike cable, there's no shared use of cable channels which slows down transmission rates.

To promote Internet access, the telephone industry, led by communications giant AT&T, has been in the middle of what industry analysts have called an "Internet war" to sign-up customers for Internet service (Kim, 1996a, D-1). Designed to "rock the Internet ecosystem" (Kim, 1996a, p. D-1), AT&T rolled-out an extensive advertising campaign to associate itself with the Internet. To make the association, AT&T has created images of the communications future and then plugged itself in as a major player, something the communications company has done impressively in the past. The 1993 AT&T promotion video, "Connections: AT&T's Vision of the Future" is an example (Connections, 1993).

AT&T's "Connections" is a 12-minute profile of the communications future that highlights the role that AT&T technology will play in facilitating understanding by helping to provide solutions to a number of issues facing a community of the future. The story is based on a plot that revolves around the marriage of a cross-cultural couple, interwoven with a series of complications that include urban decay, politics, medicine and education. The video depicts a perfect world mediated by AT&T brand services that include intelligent agents on flat video screens and characters with futuristic personal communications assistants (none of which currently exist) to create a reality that is both slick and believable. The AT&T logo is prominently displayed on the technology throughout the video, as if AT&T had somehow managed to secure a monopoly on the future. Although, "Connections" is fiction, the discourse it creates is real.

As with the other industries, the discourse being generated by the telephone industry is intense, but most of it is being directed at competition within the industry. Fierce competition in the long distance telephone market has created a war not unlike the one that characterizes the battle for Internet business. Some analysts expect that giant AT&T will, "by and large" become the largest Internet-access provider in the U.S. within a few years (Mamera, 1996, B-1). As part of it's effort to succeed, AT&T has taken a special interest in education. The company says it will invest nearly $150 million over the next five years to provide Internet access to all of the nation's 110-thousand schools (Maney, 1995). AT&T, like other communications-related companies, knows that by getting students used to Internet technology now they virtually assure themselves a place in the discourse tomorrow. In the meantime, the discourse fuels the hype of the Net.

The Computer Industry

The computer industry, combined here with the software industry and the on-line service industry, has, perhaps by design, done a great deal to contribute to the hype of the Net. Here, more than in any of the other industries discussed thus far, the hype behind the Net translates into big business.

It is difficult to discuss the computer industry without mentioning Microsoft and software czar Bill Gates. Gates dominates a large share of the software market with Microsoft products such as Windows 95, whose summer 1995 release was announced with considerable fanfare and became a media event. Gates's efforts to set the agenda in the computer industry are well known. In *The Road Ahead*, Gates predicts that electronic marketplaces, wallet-size personal computers and telecommuting will be common in the future (Jones, 1995). By attracting so much public attention, Gates has become "the prophet of the social change that technology can deliver," thereby strengthening Microsoft's position as a leader in the software industry (Rock, 1996).

What Microsoft has done for the software industry, Intel has done for the personal computer industry. The microchip maker that produces the engine that drives most home Pcs has been so successful in continually improving processor speeds that in order to stay up with technology, PC owners have to buy a new computer nearly every year. Intel keeps its consumer profile high through advertising. PC makers like Apple, Compaq and others promote the Net through competitive efforts to boost retail sales.

Consumers with computers and software created a market for the on-line services. The on-line industry kindled and then fed Internet frenzy by offering computer owners free software and trial time to check out their rapidly expanding services. America On-line, CompuServe, Prodigy and others became part of the Net lexicon and helped create the impression that everyone had a computer and was on-line, a perception that has hooked investors on Internet stocks (Kim, 1996b).

The reality of the on-line world is reflected in a Fall 1995 survey that found only about 11 percent of the combined population of adults in the United States and Canada had used the Internet in the previous three months (Lewis, 1995). While the numbers of on-line users were increasing at a steady rate, the same figures showed that most users were accessing the Net from work, not home. Only about one-third of U.S. homes have computers, which are required for home Net access. A slowing in the growth of U.S. home PC sales and projections of a potential decline (Schmit, 1996), including profit losses by Apple Computer (Kim & Schmit, 1996), all suggest that the Cyberspace express may be running out of steam. A 1995 survey by International Data Corporation found that of those who do not currently have a PC at home and did not plan to buy one, over half said they have no need for one. Over a quarter said they could not afford a PC (Schmit, 1996). Yet the optimistic forecasts continue.

Feeding the hype are projections like those by Forrester Research that predict on-line services will peak sometime in 1998 with 15.8 million subscribers. The number of subscribers obtaining direct access to the Net is also expected to increase from the current five-million to around 32-million (Snider, 1996). Similar projections that predict the explosive growth of the Net continue to receive widespread media attention. Despite the inexact science of forecasting (Klopfenstein, 1989) and a track record that shows technological "wonders" are commonly overvaluated, assumptions continue to drive many Net predictions. A remarkably typical mistake made by technological forecasts assumes a strong upward growth curve (Schnaars, 1989), much like the one that many forecasters claim characterizes the growth of the Internet and World Wide Web.

Conclusion

Two conflicting realities of the Net are evident in the industries that have been discussed. One reflects the perception of reality created and perpetuated by each industry. The other is based on the reality of the technological and policy environment. Between the two realities there is a perceptual gap.

Despite tough times in the newspaper and television industries, both mediums have devoted considerable coverage to the Net frenzy that is poised to undermine their audiences. The cable TV industry is caught in a promise vs. performance dilemma in its efforts to develop the two-way cable modem and "reinvent" cable. The telephone industry, in addition to being in the midst of a high profile "Internet War," has created exotic images of a future that does not yet exist. The computer industry continues to promote the impression that everyone is going on-line, while computer sales lag. The result is a discourse that does not accurately represent the Net frontier it is supposed to describe.

There are some implications in the resulting policy paradox. One concern is overreaction. Congressional overreaction to Cyberporn in the passage of the Communications Decency Act is an example of how discourse can effect legislation. A subsequent ruling by a panel of federal judges barring enforcement of the Act (Ivey, 1996) attests to the questionable wisdom of Congressional attempts to impose censorship on Net users through the CDA.

Outright misregulation of the Net is another concern. The example provided by cable television in the alternate regulation and deregulation of the cable industry illustrates the degree to which the growth of cable was misguided by delusions about what cable was. The discourse generated by the players in the battle for the Net frontier is similarly producing mixed signals. Combined with the conspicuous absence of public input into the discourse, there is a real danger in the Net being portrayed as something other than it is and, consequently, misregulated. Widespread confusion as to what the Net is only complicates a picture that is still too fuzzy to see clearly. Without clear definition, manipulation comes easy.

The removal of regulatory barriers and the creation of a competitive environment, while allowing market forces to compete, has at the same time fostered the creation of a false reality. The Net, rather than being pulled by consumer demand, is being driven by industry and media hype. In an effort to generate demand for their products and services, the different players have produced a self-interested discourse that is aimed more at garnering market share than it is at serving the public. If Net policy follows the hype rather than the reality, the future of the Net is in jeopardy. Rather than benefiting the public, the Net will only serve the commercial interests of its masters. Instead of a public discourse guided by reasoned analysis and debate, the Net frontier more closely resembles a three-ringed circus where the player with the most bizarre act is attracting the most attention.

Changing the way the Net is discussed, understood and regulated will require shattering the industry-created myths that currently pervade the Net. To realize the Net's full democratic potential, the public will have to become more active in the discourse. Otherwise, the public will become one of the first casualties in the battle for the Net frontier.

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Uses and Gratifications
# of the
World Wide Web

By

Barbara K. Kaye, Ph.D.

Southern Illinois University

Presented to the Communication Technology and Policy Division, AEJMC, 1996

Barbara K. Kaye, Ph.D.
Dept. of Radio/TV
Southern Illinois University
Carbondale, IL 62901
618-453-6068
bkaye@siu.edu

Uses and Gratifications of the World Wide Web

Uses and gratifications of the mass media have been extensively researched. What has received limited attention is the application of this approach to new technologies and specifically to the world wide web (web). This pilot study examines the uses and gratifications of the web and its impact on traditional mass media from an audience use perspective. Additionally, web use motivations are compared to the uses and gratifications of television viewing found in previous research.

The World Wide Web

The internet was started in 1970 to create the U.S. Defense Department network, ARPAnet (Advanced Research Projects Agency), as a support for military research (Krol, 1995). The internet is comprised of various text-only subsections and the world wide web which presents information in text, graphic, video, and audio formats. The world wide web was created in 1989 at the European Particle Physics Laboratory (CERN) as an electronic publishing vehicle (Krol, 1995).

Primarily due to complicated commands, limited accessibility and scientific content, the web was largely out of the public domain until 1993 when the web browser, Mosaic, was developed by students at the University of Illinois. Mosaic allow users to view the web's hyperlinked text and graphics by merely pointing and clicking on icons (Herz, 1995). Since Mosaic's introduction, other web browsers have become available, Netscape being the most notable. With Netscape, "the web has exploded into a user-friendly, do-it-yourself hypermedia publishing system that's likely to change the way many of us look at the way we distribute information..." (Himowitz, 1995, p. C1).

In Fall 1995, researchers reported that 37 million people 16 years and older in the U.S. and Canada have access to the internet (CommerceNet & Neilsen Research, 1995). In the U.S. alone, 9.5 million people (3.6 percent of the population) of all ages spend an average of six and a half hours a week browsing the internet which is currently boasting an incredible annual growth rate of 100% (Internet eats into...,1996; McGarvey, 1996). Further, it is projected that by 1998 the internet will be used by 100 million people or nearly 40 percent of all Americans (Angell & Heslop, 1995).

The world wide web consists of a myriad of sites supplied by entities too numerous to count connected by a vast labyrinth of thousands and thousands of computers. The web's diversity and abundance of content is astounding and limitless. In July 1995, it was estimated that four million documents were available on the web, three months later this number had grown to eight and a half million pages, representing a 112% gain (Maudlin, 1995). Currently, the web consists of an estimated range of 16 million to 50 million pages of information (Caruso, 1996; Croal & Stone, 1996).

Web users can get minute by minute baseball scores from ESPN or the latest news from CNN, USA Today, the Washington Post, or any of the approximately 1,300 television, radio, and newspaper sites on the web (Outing, 1995; TVNet, 1995; Young, 1995). The most popular internet sites are the ones containing television related topics (Berniker, 1995a). Web users can read about the week's lineup of guests on Late Night with David Letterman, chat with "cyberpals" about who shot Mr. Burns on The Simpsons and discuss the relationship between the characters Rachel and Ross on Friends. On television program sites the web audience sees photos of their favorite television stars, reads about upcoming episodes, listens to television programs' theme songs and hears characters spewing popular lines, such as Homer Simpson's "Doh", or Bevis and Butthead's well-known and widely imitated laugh.

Online radio stations can be accessed for play lists, local news or DJs' biographical information. Radio stations can transmit their signals over the internet in real time using either "RealAudio" or "StreamWorks" applications. To receive these radio broadcasts web users merely need to download free copies of RealAudio or StreamWorks player software from the web (Berniker, 1995b; Rinzel, 1995; Vaughn-Nichols, 1995). According to a counting mechanism on the "RealAudio" homepage, as of February 1996 slightly more than two million copies of "RealAudio" have been downloaded onto personal computers (RealAudio, 1996). This means that millions of users have the capability of receiving AM-quality radio transmissions on their PCs. ESPN Sportszone features live play-by-play broadcasts of NBA games over the internet (Berniker, 1995c). National Public Radio delivers All Things Considered and Morning Edition over the web, and by clicking on ABC RadioNet's web site users can listen to hourly newscasts live or at any other time they please (ABC RadioNet...,1995; Quittner, 1995).

Though the internet consists of a "range of media" (December, 1996, p. 17) it is anticipated that as technology becomes more sophisticated web sites will increasingly become more like television in their presentations. Instead of viewing static graphics many web users enjoy full-motion video available on an increasing number of sites. Through newly developing video-broadcast software such as "Vosaic" the picture quality of six frames per second will soon be like "TV on the web" (Watching the Web, 1996, p. 12).

NBC and the Intel Corporation are currently combining their efforts in promoting "intercasting," a combination of broadcasting and the internet (Antonoff, 1996; Berniker, 1995b; Fischer, 1996; St. John, 1996). Networks, such as NBC, CNN and MTV, have plans to insert web data into their television programs via the vertical blanking interval (VBI). On older model television sets the VBI was visible as black lines that rolled by when the picture was improperly adjusted. On newer televisions the VBI is invisible and its broader bandwidth allows web data to be inserted into the TV signal itself at speeds much faster than telephone lines. An NBC executive calls the idea a "hybrid medium that uses the existing analog technology of broadcast television to send digital data over the air along with television programming onto a personal computer" (Berniker, 1995a, p. 74).

Computers equipped with an intercast board will display television images on one part of the screen while receiving text, photos, and graphics on another (Berniker, 1995a). For example, while watching NBC Nightly News about the Balkan crisis viewers will be able to access, say, a map of the region from the web which will then be displayed on the portion of the screen below or next to the news anchor. Also, viewers will be able to switch from a television program to any web site; for instance, from an MTV video to the rock band's home page (Antonoff, 1996; Berniker, 1995a).

In addition to web information merging with television programming, browsing through web pages is in many ways similar to the physical act of watching television; users face a screen displaying text and graphics, which in some instances also includes audio and video components. Though the web is not yet as visually compelling as television, 18 to 33 percent of web browsers report watching less television now than before becoming internet users (Bromley & Bowles, 1995; Internet eats into..., 1995). However, only slightly more than one tenth (11.1%) of internet users report a decrease in newspaper readership and radio listening (Bromley & Bowles, 1995).

Switching from web site to web site is in some ways similar to changing television channels. When internet users wish to switch from one web site to another they may do so by typing in a known web address (URL - uniform resource locator) into a pull down window. Web users may also switch from site to site by using their mouse to simply click on a "hot link" (highlighted text or graphics) or they may browse sites by clicking on the Netscape's back/forward buttons - which function similarly to the "up/down" arrow keys on television remote control devices. However, unlike television, the web does not have prime locations on its "dial", thus ESPN SportsZone does not have inherent advantage over, say, John Doe's personal home page (Levy, 1995).

Even the "lingo" of web browsing is borrowed from television. Commonly used terms such as "surfing" and "cruising" and "browsing" which are used to describe traversing from one web site to another are also descriptors of television channel switching behavior.

Media Presence on the World Wide Web

Television, radio and print media's online sites are fairly similar in their text, graphics, audio and video presentations. On the world wide web distinctions among media are less discernible than in their non-digitized forms. There are few online characteristics that distinguish one medium's web site from another medium's home page, regardless of whether the site was originated by a television network, radio station, or newspaper. USA Today's online site and ESPN SportsZone both deliver the latest sports scores and offer news stories about athletes and teams. Even though USA Today and ESPN are two distinct mediums - newspaper and cable television network- there is very little difference in their presentations of sporting news on the web. Through their web sites, media can take on the characteristics of their competitors. For example, NPR has an online site which provides All Things Considered, a program originated by that network. If NPR's web page provides only the audio aspect of the program then to the web user it is the same as listening to the radio. However, if NPR adds a video component to the news story and provides an in-depth text version, it then begins to take on the video and print characteristics that are typical of television and newspapers.

It needs to be made clear that the media are not the only information providers on the internet. Anyone with a server or access to one can be a web publisher. Different from traditional mass media, the internet does not impose regulations or licensing requirements on information providers, thus, allows a vast number of producers to create an unlimited amount of digitized material (Herz, 1995).

The Internet as a Mass Medium

Recently, researchers have been examining the internet as a mass medium (Lock, 1995; Morris & Ogan, 1995; Newhagen & Rafaeli, 1996; December, 1996). Morris and Ogan (1995) state "when the internet is conceptualized as a mass medium, what becomes clear is that neither "mass" nor "medium" can be precisely defined for all situations, but instead must be continually rearticulated depending on the situation. The internet is a multi-faceted mass medium; it contains many different configurations of communication" (p. 42).

Before any medium can be considered a mass medium, a critical mass of adopters must be reached. Rogers (1986) states that "a critical mass of adopters of an interactive communication technology are necessary for the utility of the new idea to be sufficient for an individual to adopt" (p. 120). When examining new media technologies, Markus (1990) suggests that adoption of an interactive communication technology is an "all or nothing proposition" (p. 200). If critical mass is not achieved members of a community will eventually cease using the technology because of lack of reciprocity. However, a group within a larger community may adopt and continue to use an interactive medium as a unit, even though the innovation does not spread more widely throughout the population. Markus (1990) also states the less amount of time, financial expenditure and complexity required to obtain or use the new technology the greater the likelihood of adoption, and hence of reaching critical mass. Generally, critical mass is achieved when about 16 percent of the population has adopted an innovation (Markus, 1987). Though the internet, and specifically the world wide, cannot yet claim that rate of adoption, if web use continues to increase at its current rate critical mass may be reached within a few years.

Web users comprise less than five percent of the U. S. population and a large portion gain online access through their school or work computers rather than their home PCs. To bring the internet use into homes, Oracle and Sun Microsystems will soon be introducing a "no-frills", less than $500 network computer (NC) (Mello, 1996; Meyer, 1995). The NC promises to be a low-cost, easy-to-use computer whose creators hope will entice resistant technophobes to the internet. Rather than providing a full range of applications as PCs do, the NC will be little more than a "dumb" terminal linked to the internet that allows browsing via a simple keyboard or perhaps through a remote control type of device (Mello, 1996; Meyer, 1995). More importantly, because NCs will be easy to use and inexpensive it is anticipated that they will draw a larger, more diverse audience to the internet until eventually the web's audience will almost equal that of today's mass media (Herz, 1995).

Electronic and print media are turning to new technologies in search of larger audiences and new ways to reach their markets. According to Lock, "the leader in these new technologies is the internet" (1995, p. 7). The increasing media presence on the internet is strengthening the web as a system of information delivery. Thus, in all probability, the web may one day rival its supporters, the traditional media (Lock, 1995). However, rather than displacing existing media the internet will find it's niche among them (Newhagen & Rafaeli, 1996).

Uses and Gratifications and the World Wide Web

The uses and gratifications perspective has been traditionally employed in the study of mass media and its contents. The critical assumptions of the uses and gratifications approach are; a) the audience is active, b) media use is goal directed, c) media consumption can fill a wide range of gratifications and, d) gratifications have their origins in media content, exposure, and the social context within which the exposure takes place (Palmgreen, Wenner & Rosengren, 1985, p. 14).

Traditionally, uses and gratifications research has been applied to mass media, "but has held promise for the study of new technologies" (Williams, et al, 1985, p. 241). Recently, the approach has been deemed appropriate for and has been applied in researching "new" communication technologies such as VCR's, cable television, and television remote control devices (Cohen, A. A., Levy, M. R. & Golden K., 1988; Lin, 1993; Perse & Ferguson, 1992; Rubin & Bantz, 1989; Walker & Bellamy 1989; Walker, Bellamy & Truadt, 1992; Williams, Phillips & Lum, 1985).

When examining gratifications obtained from new media, Williams, et al., (1985) summarize that "new communication technologies generally offer users or audiences, a) more (and complex) choices in how they see or hear media content, b) new opportunities for altering the message directly or upon replay, c) the ability to "time-shift" or reallocate time for certain media experiences, and d) chances to interact with other audience members" (p. 465).

Several researchers have recently purposed employing the uses and gratification approach to the internet (December, 1996; Morris and Ogan, 1995; Newhagen & Rafaeli, 1996). Morris and Ogan (1995) state that since the internet is both an information and entertainment source it may be a "functional equivalent" of other media replete with both positive and negative effects as well as various uses and gratifications (p. 43). Newhagen and

Rafaeli concur that uses and gratifications offers researchers opportunity to examine the internet from an audience use perspective (1996).

Research Questions

Contemporary studies have identified television viewing motives which have been linked to television viewing attitudes and behavior (Rubin, 1981, Rubin, 1983) and have been used when researching new communication technologies (Cohen, A. A., Levy, M. R. & Golden K., 1988; Lin, 1993; Perse & Ferguson, 1992; Rubin & Bantz, 1989; Walker & Bellamy 1989; Walker, Bellamy & Truadt, 1992). The world wide web has recently emerged as a new communication technology/medium that is considered a cross between computers and television (Berniker, 1995a; Newhagen & Rafaeli, 1996). Therefore, this study investigates the applicability of television viewing motivations to the world wide web.

The basic procedures and research design used by Rubin (1981) are adapted for the current study. Specifically, this study applies the television viewing motivations identified by Rubin (1981) to the world wide web. Rubin (1981) identified nine television viewing motivations as passing time, companionship, arousal, content, relaxation, information, escape, entertainment, and social interaction. Later analyses (Rubin, 1983), reduced the nine viewing motivations to the following five factors: pass time/habit, information, entertainment, companionship and escape. The purpose of this research is to ascertain whether world wide web use motivations are similar to the television viewing motivations identified by Rubin (1983). Thus, the first research question asks:

1. Are web use motivations similar to those Rubin (1983) found for television viewing?

Rubin (1981, 1983) examined the relationships between television viewing motivations, amount of viewing, affinity toward television and perceived reality of programming content. The current study seeks similar associations between web use motivations, amount of time spent on the web, affinity, perceived reality of web content and ease of use. The second and third research questions are as follows:

2) What are the relationships between world wide web use motivations and web affinity, perceived reality and ease of use?

3) What are the relationship between world wide web use motivations and amount of weekly use and the level of web experience?

Additionally, this study investigates the world wide web as a substitute for other media. Hence, the final research question queries:

4) Is the world wide web supplanting media use?

Methodology

A questionnaire was administered to 207 students at a medium-sized midwestern university. The world wide web is a relatively new technology with a very limited number of users thus a random sample of the general student population was not feasible. A non-random sample of self-proclaimed web users in communication and education classes and in the university computer labs was used. The respondents' ages ranged from 16-54 years (M=25.3), seven of ten (70.0%) are male and 28.5% female. They spend an average of 8.0 hours per week on the web which slightly more than half (53.2%) have accessed more than 75 times.

World Wide Web Use Motivations: The television viewing motivations identified by Rubin (1981, 1983) were comprised of 30 statements of reasons for watching television. These statements were adapted for the present study, thus whenever necessary the word "television" was substituted by "world wide web," otherwise the statements were unchanged. [1] Respondents indicated their level of agreement with the statements of reasons for accessing the web by selecting from the following responses: (1) not at all like my reason, (2) not much like my reason, (3) somewhat like my reason, (4) alot like my reason, (5) exactly like my reason.

An open-ended question asked "please state your reasons for accessing the web". Respondents were free to list all of their reasons. The open-ended responses were categorized and counted.

World Wide Web Attitudes: Two summated indexes measuring affinity toward television and realism of television programming (Rubin, 1981, 1983) were adapted to examine affinity toward the world wide web and perceived realism of web content. A third summated index probing the ease of using the web was constructed specifically for the current study.

1)The importance of the world wide web in the lives of the respondents was measured by the affinity index consisting of the following statements: "I could easily do without the www for several days;" "If I couldn't access the www I would not miss it;" "Accessing the web is one of the most important things I do each day;" "I would rather access the www than do anything else;" "I would feel lost without the www to access."

2) Perceived reality of online content consisted of the following statements: "The www does not show life as it really is;" "The www lets me see how other people live;" "The www presents things as they really are in life;" "If I see something on the www, I can't be sure it really is that way;" "The www lets me see what happens in other places as if I were really there." Intercorrelations and reliability measures resulted in the exclusion of the third and fourth reality items.

3) The index measuring ease of using the web and accessing information consisted of the following statements: "If I want up-to-date news it's easier to watch television than access the www;" "I can usually find specific information that I am looking for on the www;" "It's easier to find specific information on the www than to use other non-electronic sources;" "It's quicker to search for specific information using the www than the library;" "It's easy to find information that I'm looking for on the www."

The response options for each attitude index ranged from "strongly agree" (5) to "strongly disagree" (1). The polarity was reversed on the first and second affinity statements, the first and fourth reality statements and the first ease of use statement.

World Wide Web Use: The amount of web use per week was measured through the following open-ended question; "Approximately how many hours a week on average do you spend on the world wide web"? Additionally, to determine levels of experience respondents were asked the approximate the number of times they have accessed the web.

The World Wide Web and the Media. Respondents were asked to indicate their level of agreement with statements which described their media/technologies use as a result of becoming a world wide web user. The response options ranged from "greatly decreased" (1) to "greatly increased" (5) for each of the following media: television, VCRs, radio, magazines, newspapers, movies, and books. Additionally, respondents were queried on changes in their library use. A second question investigating links between the web and media asked respondents, "In your opinion using the www is most like using which of the following media?" The response options were as follows: "watching television," "listening to the radio," "reading the newspaper," "reading magazines," "reading books," "watching a movie," or "a combination of media, please specify."

Results

Motivations: The first research question addresses web use motivations. Respondents marked their level of agreement with 30 reasons for using the web which were factored by principal components analysis with varimax rotation. Items were assigned to a particular factor if the primary loadings were greater than .50 (Stevens, 1986). Six factors with eigenvalues of at least one were retained accounting for 64.7% of the variance. The factors are as follows: entertainment, social interaction, pass time, escape, information, and web site preference (see Table 1). The six factors are comprised of 26 of the original 30 web use reasons adapted for this study from Rubin's (1981) research on television viewing. Four items; "because it peps me up," because it's a habit, just something I do," "because it makes me feel less lonely," and "so I don't have to be alone" did not meet the criteria to load on any factor thus were excluded (see Table 2).

An open-ended question probing reasons for using the web found seeking general information as the most frequently (23.5%) mentioned web use motivation. Entertainment (16.3%), research (15.1%), pass time (10.0%) and news (6.0%) make up the remaining top five reasons given for using the world wide web. Other reasons include curiosity, job searching, social interaction, sports information, accessing specific sites, shopping, technology/downloading software, web page construction.

Attitudes: The relationships between world wide web use motivations and affinity, reality, and ease of use are the focus of the second research question. The levels of identification with each web use motivation and affinity toward the web were correlated. Significant positive associations were found between affinity towards the web and the following four web use motivations; social interaction (r = .41), entertainment (r = .30), escape (r = .29), and information (r = .28). Respondents who indicated greater associations with these four motivations exhibit stronger affinity towards the web.

Analysis reveals significant positive correlations between perceived reality of web content and the following three motivations; information (r = .41), entertainment (r = .26), and social interaction (r = .16). The more realistically web content is perceived, the more likely respondents are to use the web for accessing information, for entertainment and for satisfying social interaction needs.

Respondents' perceptions of the ease of using the web were correlated with each of the six motivations. Significant positive associations are found between ease of use and entertainment (r =. 25), information (r = .34) and accessing specific sites (r = . 23). The easier it is for respondents to use the web the greater the likelihood that they will use the web for entertainment purposes, information seeking, and accessing preferred sites.

Entertainment and information are the only two web use motivations that are significantly associated with all three attitude indices. Passing time was the only web motivation not associated with either affinity towards the web, perceived realism, or ease of use. Table 3 presents correlations between web use motivations and attitudes.

Amount of Web use: The third research question addressed the association between web use motivations and the number of hours per week spent on the web and the number of times respondents have accessed the web. Amount of weekly use was significantly positively correlated with entertainment (r = .30), social interaction (r = .23), and escape (r = .17). The greater the number of hours per week spent on the web the more closely respondents associate with these three motivations. Additionally, the relationship between the amount of web use and information as a motivation approaches a level of significance (r = .16, p = .06).

Correlation analysis was conducted between the approximate number of times respondents have the accessed the web and motivations. Only web sit preferences was significantly positively associated (r = .23) with the amount of overall web experience (see Table 3).

Media Use: The fourth research question investigated whether the web is supplanting other media. Slightly more than one-fourth (27.9%) of all respondents reported spending less time watching television, reading magazines and newspapers, and using their VCRs since discovering the web. Slightly more than one-fifth (21.9%) invest less time reading books for leisure. Movies and radio have lost 14.5% and 13.9%, respectively, of their audience members who use the web. However, two-thirds (66.5%) of the respondents reported that the world wide web had not changed the amount of time they spend using either television, radio, magazines, newspapers, movies, books, or VCRs (see Table 4).

Additionally, since the web is an information seeking vehicle and the respondents in this study are university students, the web's impact on the amount of library use was examined. Almost six of ten (56.2%) respondents indicated that the amount of time they spend in the library has decreased as a result of using the web (see Table 4).

Further analyses were conducted to ascertain whether the number of hours of weekly web use and the level of web experience affect the amount of time spent using other media. Bivariate correlations indicate that as the number of hours spent using the web per week increases, television viewing significantly decreases (p=.000), as does VCR use (p=.001). The more times the web is accessed both television and VCR use significantly decline (p=.000, p=.002, respectively).

Respondents were asked to select which medium the web was most like using from the following choices: television, radio, newspaper, magazines, books, movies, or a combination of the above. According to four of ten (39.3%) respondents using the web most closely resembles reading magazines. Only slightly more than one in ten reported that the web is most like reading the newspaper or watching television (14.6% and 10.2%, respectively). To just more than one-fourth (26.5%) of the respondents the web resembles a combination of all of the media and 10.6% stated that the web is most like watching television combined with reading either magazines or newspapers.

Discussion

This study examined the uses and gratifications of the world wide web. The web is an emerging new communication technology that is impacting existing media and information delivery systems. Recently, researchers have recognized the importance of studying web users beyond descriptive demographic data. Uses and gratifications has been acknowledged as a viable approach for studying audience behaviors and attitudes towards the web.

Though the web encompasses many of the properties (text, graphics, audio, video) of traditional media, it is anticipated that it will become more like television in its presentation. As technology develops users will be accessing web sites while watching their favorite television programs on their PC's or their NC's. Further, web users sit in front of a screen and simply click their way from one site to another; similar to changing television channels but with the mouse acting as the remote control device. Therefore, this study asked whether the uses and gratifications of world wide web use are similar to the reasons for watching television.

Reasons for using the web factored into six motivational categories: entertainment, social interaction, pass time, escape, information, and web site preference. These web use motivations are similar to the five television viewing factors reported by Rubin (1983). The strongest motivation for watching television is to pass time/out of habit, whereas the strongest web use motivation is entertainment followed by social interaction followed by to pass time. Habit, as a reason to use the web, does not fit into the pass time category. The web has probably not been in existence long enough for it to have become part of users daily routines.

Though social interaction is a primary web motivation, users do not access it to counter loneliness. Respondents access the web with friends and family members and socially converse about sites they've discovered, however they do not turn to the web to make them feel less lonely as Rubin found viewers do with television. Until web technology catches up with television, its presentation of text and mostly still graphics clearly does not fulfill users needs for human interaction as much as does television.

The relationships between web use motivations and attitudes are positive though some were not strongly correlated. Web users who access sites for entertainment, escapist, social or informational needs exhibit greater web affinity than users who just want to pass the time or access a specific home page. Though strongly correlated with web attachment, social and information motivations were not highly correlated with television affinity (Rubin, 1981). Perceived realism of web sites is strongest among web users who are looking for entertainment, social interaction and information, indicating trust in the reliability and veracity of information posted on the web. Web users who are just passing the time do not regard content as being very realistic. This is consistent with habitual television viewers who do not perceive broadcast content as true-to-life (Rubin, 1981). The easier it is to access web sites the more likely users are to be motivated to seek entertainment and information and to go to specific preferred home pages. These users may enter the web for a particular reason and thus how simply they can achieve their goal is of importance. On the other hand, browsers who are motivated to pass time, escape or interact with others may just be exploring the web and thus not as concerned with simplicity of use.

The amount of time users spend on the web each week and overall web experience are positively associated with web use motivations. The greater amount of time users spend on the web per week the stronger the associations with the entertainment, escape, and social interaction motivations. Entertainment and social interaction (companionship) were both significantly associated with levels of television viewing (Rubin, 1981). Passing time was also related to amount of television viewing but not with the amount of web use. Unlike television which is a more passive medium, the web is an interactive technology that requires users' attention thus does not readily lend itself to idle use.

The number of times respondents have accessed the web is significantly positively related to web site preference and negatively related to escapist purposes. The more experienced users are the more they tend to go to specific preferred sites and the less likely they are to access the web as a means of escape. Web users motivations may become more goal-oriented as they become more familiar with the web and more experienced in attaining gratifications sought.

The world wide web's impact on traditional media use should not be taken lightly. Slightly more than one-fourth of this study's respondents report that since becoming web browsers their media use, including VCR playback, books, and movies, has decreased. Television, magazines and newspapers are taking the heaviest hits as their audiences turn to the web for news, information and entertainment. These findings are consistent with other studies which may have acted as catalysts in the creation of media related web sites. As the media industry recognizes and acknowledges the web's potential as an entertainment and information medium they are increasingly creating a presence on the web.

This initial investigation of the uses and gratifications of the world wide web found some similarities between web use and television viewing. However, with the advent of the web, and of cable networks and 60+ channel cable systems, motivations for television viewing and web use may be in flux. Therefore, future research could examine the uses and gratifications of the web derived from open-ended responses rather than from other media studies. Open-ended

Notes

1. World wide web motivations:
   because it entertains me;
   because it's thrilling;
   because it allows me to unwind;
   because it's enjoyable;
   because it's exciting;
   because it's a pleasant rest;
   because it relaxes me;
   because it amuses me;
   because it peps me up;
   because I just like to access it;
   because it gives me something to occupy my time;
   because it's a habit, just something I do;
   because it passes the time away, particularly when I'm bored;
   just because it's just there;
   when there's no one else to talk to or be with;
   when I have nothing better to do;
   so I can forget about school, work, or other things;
   so I can get away from what I'm doing;
   so I can get away from the rest of the family or others;
   because it makes me feel less lonely;
   because its something to do when friends come over;
   so I can be with members of the family or friends who like to access the web together;
   so I can talk to other people about the sites I've accessed;
   so I don't have to be alone;
   so I can learn how to do things I haven't done before;
   so I can learn about what could happen to me;
   because it helps me learn about myself and others;
   when I want to find specific information;
   because I like to access certain sites;
   when there's a specific site I want to access.

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Table 1

Web Use Motivations

Factors	Eigenvalue	Common Variance (%)
Factor 1 (Entertainment)	10.58	35.3
Factor 2 (Social Interaction)	3.09	10.3
Factor 3 (Pass Time)	2.04	6.8
Factor 4 (Escape)	1.33	4.5
Factor 5 (Information)	1.31	4.4
Factor 6 (Web site preference)	1.01	3.4
Total		64.7%

Table 2
World Wide Web Use Motivations Factor Matrix

World Wide Web Use Motivations	F1 Entertain	F2 Social Interaction	F3 Pass Time	F4 Escape	F5 Inform	F6 Web Site Preference
Factor 1 (Entertainment)						
because it's exciting	.75	.17	.11	.07	.28	-.09
because it's enjoyable	.73	.00	.19	.10	.17	.05
because I just like to access it	.73	-.08	.24	-.00	.08	.17
because it entertains me	.72	.04	.15	.07	-.11	.22
because it's a pleasant rest	.69	.19	..21	.37	.13	-.01
because it allows me to unwind	.69	.15	.09	.26	.18	.07
because it amuses me	.67	.14	.29	.10	.03	.01
because it's thrilling	.65	..36	.01	.04	..21	.02
because it relaxes me	.65	.27	.24	.39	.13	-.02
Factor 2 (Social Interaction)						
because its something to do when friends come over	.14	.80	.26	-.14	.12	-.09
so I can be with other members of the family or friends who like to access the www together	.05	.70	-.06	.27	.12	-.06
so I can talk to other people about the sites I've accessed	.24	.67	.19	.10	.11	.19
Factor 3 (Pass Time)						
when I have nothing better to do	.24	.30	.71	.12	-.05	.12
because it passes the time away, particularly when I'm bored	.04	.10	.70	.26	-.11	.07
just because it's just there	.23	-.07	.69	-.04	.23	.19
because it gives me something to occupy my time	.36	.21	.69	.08	.01	.05
when there's no one else to talk to or be with	.06	.37	.53	.37	.25	.12
Factor 4 (Escape)						
so I can forget about school, work, or other things	.35	.05	.12	.79	-.01	-.01
so I can get away from what I'm doing	.27	.32	.20	.71	.04	.12
so I can get away from the rest of the family or others	.11	.19	.34	.51	.02	-.12
Factor 5 (Information)						
so I can learn how to do things I haven't done before	.27	.11	-.05	-.15	.72	.02
because it helps me learn about myself and others	.23	.16	.02	.02	.70	.19
so I can learn about what could happen to me	.04	.20	.21	.24	.64	.15
Factor 6 (Web Site Preference)						
when there's a specific site I want to access	.08	-.05	-.01	.09	.00	.84
when I want to find specific information	.13	-.02	-.05	-.11	.28	.69
because I like to access certain sites	.37	.05	.15	.07	.00	.58
because it peps me up*	.39	.49	.08	.29	.36	-.00
because it's a habit, just something I do*	.34	.49	.38	.21	.10	-.01
because it makes me feel less lonely*	-.02	.42	.44	.35	.44	-.22
so I don't have to be alone*	-.07	.43	.34	.29	.39	-.16

*did not meet criteria for factor loadings

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Table 3
Correlations of Web Use Motivations

	Web Use Motivations					
Correlates (r)	Entertain	Social Interaction	Pass Time	Escape	Inform	web site
Amount of Web Use						
Hours per week	.30*	.23**	.12	.17***	.16	.13
Number of times accessed	.14	.01	.01	-.01	.03	.23**
Web Attitudes						
Affinity	.30*	.41*	.13	.29*	.28*	.07
Reality	.26**	.16***	.14	.05	.41*	.13
Ease of Use	.25**	.04	.06	.09	.34*	.23**

***p<.05, **p<.01, *p<.001

Table 4

Impact of the World Wide Web on Media/Technologies Use

"As a result of becoming a web user,
the overall amount of time that I now spend..."

Media	Greatly Increased (%)	Increased (%)	Stayed the Same (%)	Decreased (%)	Greatly Decreased (%)
watching television	1.0	1.5	68.5	18.0	11.0
watching tapes on my VCR	0.5	4.0	71.0	16.5	8.0
reading magazines	0.5	10.0	58.7	24.2	5.8
reading newspapers	1.5	8.0	62.7	21.4	6.5
reading books for leisure	1.0	9.5	67.7	16.9	5.0
going to the movies	0.5	10.5	74.5	11.5	3.0
listening to the radio	1.0	8.0	77.1	11.9	2.0
Average all media	0.8	7.1	66.5	16.8	5.7
looking for information in the library	1.5	7.5	34.8	39.3	16.9

Comparing Consumer Feedback Channels:
Newspapers Versus Television

By Wayne Wanta,
Jim Upshaw
and Kathryn B. Campbell

School of Journalism and Communication
1275 University of Oregon
Eugene, OR 97403-1275
541-346-3752
email: wanta@oregon.uoregon.edu

** Paper presented to the Communication Technology and Policy Division at the Association for Education in Journalism and Mass Communication annual convention, Anaheim, Calif., August 1996.

** Wanta is an associate professor, Upshaw a professor and Campbell a graduate student in the School of Journalism and Communication at the University of Oregon.

Comparing Consumer Feedback Channels: Newspapers Versus Television

Abstract

A comparison of responses from television news directors and newspaper editors revealed that newspapers tended to use the more traditional method of mail surveys to get feedback from their readers. Television stations used new technologies -- such as email/internet and phone lines -- to allow their viewers to be more interactive. Television news directors also were more likely to use feedback from viewers for news tips, to set coverage agenda and to promote station image.

Comparing Consumer Feedback Channels: Newspapers Versus Television

New technologies, such as the internet and audiotext phone lines, have begun changing the relationship between news consumers and journalists, making the relationship more mutually interactive. Editors and news directors now have the ability to accurately gauge what consumers want in their products because of these new channels of feedback.

It is unclear, however, how rapidly and in what ways both print and broadcast journalists are adopting these technologies and to what end they are using these technology tools. Are media using these technologies to increase their circulation or ratings? Or are media using these technologies to improve their products by learning what their customers want?

The purpose of the present study is to examine how these new technologies have been incorporated into the nation's newsrooms, and whether these new technologies have been used differently by the print and broadcast media. Both the nature of the two media and the market pressures they face -- due to factors such as competition -- are markedly different. Thus, we would assume that the print and broadcast media would differ both on which feedback methods they would utilize and on which purposes drive their feedback channel decisions.

Current new technologies, of course, will give way to other new technologies in the future. And the current generation of media users may not jump into the interactive life quite as quickly as their grandchildren. Says Christopher A. Lee, director of information services for Bell Atlantic, "There is a true possibility that the critical mass for all of this is still in the 8th grade."[1] Possibly, then, the results of the present study may foreshadow even closer interactions between news consumers and news organizations.

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[1] Michael Murrie. *Quill*, March 1994, p. 29

Regardless, because of the stampede toward interactivity, an investigation of the new technologies used by the print and broadcast media seems extremely well timed. And an investigation of which medium is leading the charge may offer important insights into how the print and broadcast media view the utility of new technologies.

Background

The news junkie turns on his TV, clicks his way to the all-news network, snaps a menu up on the screen, scrolls impatiently down a list of stories, selects the ones he's interested in, presses the play button and settles in for his customized newscast.

The market maven programs her speaker phone to the local newspaper's audiotext line, pushes the right buttons several times a day, punches in a stock symbol, tunes out the intervening advertisement, and gets the quotes she needs.

The teen-ager flips on his modem, navigates the Web to his favorite zine and browses through the entertainment news, downloading a couple of new photos of last night's Grammy winners – one of the few news events that's ever inspired him to aim his browser at CNN's web site.

People are putting themselves in charge of getting the news they need and want, and the media are putting themselves on-line – and on the line – to try to keep their businesses and their traditional role as the Fourth Estate alive. To call it an "explosion" would be to understate what's happened to information and its purveyors in the last five years -- although the term "explosion" does convey the fragmentation and emphatic rearrangement of communications systems that has resulted.

Information no longer flows in a linear, orderly fashion from newsmaker to reporter to editor to consumer. Less than a quarter-century ago, Leroy and Sterling[2] declared that individuals had little substantive power to influence the mass news system. A decade later, investigators of news content such as Carroll[3] depicted television news decisions as station-based with little direct viewer input.

But viewer power was nascent in the increasing attention that A.C. Nielsen's rating system attracted after its 1948 launch. The goal of such measurement was, and has been since, to increase broadcasters' success by clarifying audience desires. Now, every turn of the technological screw – VCRs, remote controls, audiotext, voice mail and email – embeds audience preferences ever deeper in the judgments of those who now choose what's news.

Some believe it is inevitable that viewers will take on an even greater role in program selection. Brandon Tartikoff[4] a highly successful network programmer, predicts a "democracy of choice, not a tyranny of choice like before. You will choose what you want to watch, when you want to watch."

Television, through its use of Nielsen ratings up to the introduction of people meters, has typically taken the lead in utilizing new technologies for feedback from consumers. Newspapers, meanwhile, have traditionally relied on relatively passive criteria, such as circulation figures and letters to the editor, to gauge their success with subscribers. When newspaper circulation began its precipitous decline in the 1960s, publishers got a bit more "interactive," turning to marketing surveys and focus groups to assess their papers' strengths and weaknesses. Correlating buying power and audience tastes in news, the marketers made it clear that newsrooms needed to deliver an appropriate product, sometimes regardless of their professional news judgment. Intermittent feedback began to guide news decisions, but at best, it could be described as a one-way street that was occasionally opened to two-way traffic.

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[2] D.J. Leroy, and C.H. Sterling. *Mass News: Practices, Controversies and Alternatives*. Englewood Cliffs: Prentice-Hall, 1973.
[3] Raymond L. Carroll. "Content Values in TV News Programs in Small and Large Markets," *Journalism Quarterly*, 68 (Winter 1985):877-882
[4] In A. Thomas. "Tartikoff Sees Louisiana in Forefront of Media Highway," *Shop Talk* (on-line media newsletter), Nov. 10, 1994.

Recently, however, newspapers have discovered audiotext, which utilizes phone lines to present information that a caller chooses from a wide array of topics. In 1989, fewer than 50 newspapers in the United States offered audiotext or on-line information services. By 1995, that number had soared past 3,000.[5]

Audiotext is seen by some researchers as the bridge between old and new technologies.[6] Consumers are comfortable with their telephones, for the most part, and find it relatively easy to follow instructions that move them from general to more specific information. A 1993 study[7] found that most audiotext users were regular callers who accessed stock quotes, financial information, weather reports, horoscopes, trivia and soap opera updates. News updates were much less popular. But the study's authors suggest that consumer comfort with phone services may give the media more confidence in its first forays into the interactive future.

Although much attention has been lavished on big-investment, splashy interactive systems inaugurated by large newspapers, smaller papers have found that they can get themselves on line with speed and relative ease. Gene Burd warned in 1994 that the information highway would bypass community journalism unless it was ready to "adjust, adapt and thrive with a blend of community identity combining geographic place and mutual interests across space."[8]

Many have risen to the challenge. For example, a weekly Los Angeles paper initiated a highly successful restaurant information phone line that included menus faxed free to callers. The publisher pointed out that the regional paper could handle information requests about its 140 restaurants in a timely and user-friendly manner, something the behemoth *Los Angeles Times* could not.[9] Some very small newspapers can set up Web sites for under $500.[10] Says South Dakota editor Walter Munstock: "Someone will have to provide those on-line services (expected by the young people of today). It might as well be you." Munstock took his own advice, set up a system and had more than 50 interactive users in six months – in a town of 3,000.

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[5] *E&P*, Feb. 4, 1995, p. 17TC

[6] David Kamerer and Lori Bergen, "Audiotext Systems," *Newspaper Research Journal*. 16 (Winter 1995):58

[7] ibid.

[8] Gene Burd, "Building Bridges," *Grassroots Editor*. 35 (Winter 1994):7

Smaller dailies and weeklies, in fact, now make up slightly more than half of the 450 newspapers on line in 1996.[11]

One newspaper has combined audiotext and focus group research to provide what it calls the "Daily Reader Report Card." Randomly selected subscribers agree to monitor the paper for a two-week period and call in daily to answer, via push-button phones, questions about the newspaper.[12] The newspaper complements its phone survey with occasional breakfasts or desserts with respondents, and overall, finds the feedback surprising and thought-provoking. "Use of audiotext technology ... does not eliminate – but it does inform – guesswork in the newsroom."[13]

Newspapers, of course, aren't alone in this interactive rush hour. Radio and television stations are jumping on the Internet at a phenomenal rate; in March 1995, just 18 stations had home pages on the World Wide Web;[14] by January of this year, nearly 300 broadcasters had established their own sites on the information highway.[15] Clearly, interactivity is being utilized more and more in the media industries.

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[9] M.L. Stein, *E&P*, March 12, 1994

[10] Walter Mundstock, "Setting Up a Newspaper BBS," *Grassroots Editor*, 36 (Summer 1995):13

[11] Steve Outing, "Hold On (line) Tight," *E&P*, Feb. 17, 1996, p. 4l

[12] Alan T. Sorensen, "We test our news judgment with real readers every day," *ASNE Bulletin*, April 1995, p. 16

[13] ibid.

[14] RTNDA, 1995

At its core, however, the technological explosion that is transforming the news chain into an interactive web offers a radically new perspective on the media/news consumer relationship. In television, for example, the traditional exchange in which viewers swap their attention (to advertising) for information[16] may be altered forever. In both newspaper and television newsrooms, reporters and editors may find their news judgments redefined by instant feedback from their audiences, providing the journalists little time to reflect on the long-term implications of their responses.

Journalist Todd Oppenheimer offers another view of the changing relationship between traditional news providers and their audiences. He recounts the story of a nationwide real-time on-line Internet discussion he moderated, apologizing at the end of the session for the paucity of participants – six in all. But those six thought the whole affair was a great success; they talked to each other and made great new connections. The moral, Oppenheimer concludes, is this: "Put simply, this is a medium where we're not the only ones doing the entertaining. People can entertain each other, sometimes turning us, The Media, into a mere sideshow."[17]

And how much influence will the upscale technotypes have on news content if their reaction is judged more critical than those with less-appealing demographics? Will the news media adjust their interactive goals to the demands of the few, use new technologies as public relations tools, willingly devolve responsibility for story choice to news consumers and be able to keep their profit margins in double-digits?

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[15] *E&P*, Feb. 17, 1996, p. 4l

[16] J.H. McManus. *Market-Driven Journalism: Let the Citizen Beware?* Thousand Oaks, Calif.: Sage, 1994.

[17] Oppenheimer, Todd. *Columbia Journalism Review*, March/April 1996, p. 28

This study attempts to provide preliminary answers to some of the above questions by asking newspapers and television stations to assess their current and future commitment to a variety of interactive methods of communicating with their audiences, including audiotext, email and the Internet, focus groups and mail surveys. The study also examines the purposes behind the use of these interactive methods. Finally, we compare the responses across print and broadcast media to investigate whether newspapers are continuing to rely upon traditional methods of reader feedback -- namely, focus groups and mail surveys -- or if newspapers and television stations are equally using new technologies.

Method

The present study compares responses gathered through two mail surveys: one involving newspaper editors, the other involving television news directors.

Editors' responses were gathered through a random sample of 400 national daily newspapers. Newspapers and addresses were randomly selected from the *1994 Editor and Publisher International Yearbook*. The questionnaire was addressed to the managing editor -- or the equivalent editor if a managing editor was not listed -- at each of the 400 newspapers. The questionnaires were mailed in early February of 1995. A reminder postcard was sent to newspapers two weeks after the initial mailing. Four weeks after the initial mailing, a follow-up letter and another copy of the questionnaire were sent to those newspapers that had not responded.

A total of 227 newspapers responded, for a 57 percent response rate, an acceptable response rate, according to Babbie.[18] An analysis revealed that the circulations of the newspapers that returned surveys corresponded closely to the overall circulation categories of U.S. dailies as reported in the *1994 Editor & Publisher Yearbook.*

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[18] Earl R. Babbie. *Survey Research Methods*. Belmont, CA: Wadsworth. 1973.

Television news directors at 650 network-affiliated and independent U.S. stations also were surveyed. The questionnaires were mailed in December 1994, or slightly more than a month before the newspaper surveys were mailed. News directors were identified through lists published in Broadcasting & Cable Yearbook, the directory of the National Association of Television Program Executives, and rosters of news directors of ABC, CBS and NBC affiliates obtained from network or station executives.

A second mailing was sent to the directors in early February. Responses totaled 291, a return rate of 45 percent, again an acceptable rate according to Babbie.[19]

The questionnaires dealt with several aspects of newsroom operations. First, editors and directors were asked if they use now or plan to use:

* E-Mail or Internet access to newspaper/station
* 1-800, 1-900 or other phone line
* focus groups
* mail surveys

Next, respondents were asked the purposes behind their decisions to use the four methods. The purposes included in the surveys were:

* to get news tips
* promote station/newspaper image
* run opinion polls
* let viewers/readers pick stories
* set coverage agenda
* reduce news costs
* expand news choices

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[19] ibid.

* give viewers/readers sense of control

* use news staff better

* increase ratings/circulation

* improve demographics.

The responses from the newspaper editors and the television news directors were then compared with a series of chi-square tests.

Results

Table 1 shows the results of the comparisons of the four types of "interactivity" that were included in our surveys. Three of the four interactive categories produced statistically significant differences.

According to the chi-square results, television stations were more likely to use email and phone lines than newspapers were. Newspapers, on the other hand, were more likely to use mail surveys than television stations were. The chi-square testing differences in adoption of focus groups across the two media was not significant. In general, then, television stations were more likely to use the more advanced interactive technology, such as email/internet and 1-800 and 1-900 phone lines, but newspapers were more likely to use traditional methods, such as mail surveys.

Tables 2 through 5 show the comparisons of responses on the purposes behind the use of each of the four types of interactivity examined in our surveys. Several trends are worth noting.

First, very few newspapers or television stations implemented any of the four types of interactivity to reduce news costs. In fact, only for newspapers and their use of focus groups did this purpose rank higher than last -- in this case 11th out of the 12 purposes.

Second, television stations generally used the four types of interactivity for news tips and news coverage comments much more than newspapers did. Again, newspapers and their use of focus groups was an exception. Only for focus groups did newspapers utilize any type of interactivity more than television stations for news coverage purposes.

Third, television stations used the four types of interactivity for increasing rating more than newspapers used them for increasing circulation. Focus groups, once again, was the exception.

The chi-square tests show several other differences between television stations and newspapers.

Table 2 lists the results comparing the purposes behind the use of email and the internet. Seven of the 12 purposes produced statistically significant chi-squares. Televisions stations were more likely than newspapers to respond that they used email/internet to: get news tips, promote their station's image, run news/opinion polls, set coverage agenda, give viewers control, increase ratings, and improve demographics.

Table 3 details the results comparing the purposes behind the use of 1-800 and 1-900 phone lines. Only three purposes produced statistically significant differences across the two media. Television stations were more likely than newspapers to respond that they used phone lines to: get news tips, run news/opinion polls, and improve demographics.

Table 4 shows the results comparing the purposes behind the use of focus groups. Again, three significant differences were found. Here, newspapers were more likely than television stations to use focus groups to: set coverage agenda, expand news choices, and give viewers/readers control

Finally, Table 5 lists the results comparing the purposes behind the use of mail surveys. The chi-square comparisons produced five significant differences.

Television stations were more likely than newspapers to respond that they used mail surveys to: get news tips, promote station image, set coverage agenda, increase ratings, and improve demographics.

Discussion

The purpose of the present study was to examine how television stations and newspapers differ on their use of four methods of feedback channels for news consumers: email/internet, 1-800 or 1-900 phone lines, focus groups and mail surveys. Data collected from surveys of newspaper managing editors and television news directors point to a number of differences between the two media.

Overall, newspapers tended to use the more traditional method of mail surveys to get feedback from their readers. Television stations, on the other hand, used new technologies -- such as email/internet and phone lines -- to allow their viewers to be more interactive. Two explanations for these findings are especially plausible.

First, television stations may be taking the lead in using new technologies in gaining feedback from their viewers. Indeed, television is a more advanced technology. Perhaps, television stations, then, view new technologies as more important to their future, and thus put more emphasis on advanced methods of feedback.

Second, mail surveys simply may be a more useful method for newspapers to get feedback from their readers. Some newspapers have extremely large circulation areas. Indeed, many large newspapers have circulation areas across entire states. Phone surveys would be too costly to reach a random sample of their readers. Mail surveys, therefore, would be a less expensive feedback method for newspapers.

Not only did television stations show higher use of email/internet, they also demonstrated a wider range of purposes behind this use. As Table 2 shows, television stations used email/internet most often to get news tips and to promote the station's image. Improving ratings and demographics were also important reasons for using email/internet. Not only were these the highest ranked reasons for television stations to use email/internet, but these purposes were reported significantly more often by television stations than by newspapers. Clearly, televisions stations are not only using the internet more than newspapers are, they also are finding more uses for this new technology.

Only three differences were found between the two media on the purposes behind their use of phone lines. Television stations, as with email/internet, reported using phone lines most often to get news tips. They also reported using phone lines to run news/opinion polls and improve demographics.

This finding may be due to the perception of what "phone line" meant to the respondents. In other words, "phone line" may have been interpreted differently across the two sets of news media managers. Several television stations use "phone-in" surveys, in which a station has a survey question of the day. Viewers are encouraged to call in their votes for either side of this question. Results of the survey are aired either later in the day or the next day. Thus, news directors may have thought of these phone-in polls when asked about their use of phone lines. On the other hand, newspaper editors may have thought phone lines referred to "audiotext." Again, several newspapers have audiotext phone lines, while other newspapers may have considered installing such a system. Thus, the term phone line may have meant different things to directors and editors.

This same problem with category perception also may have come into play on the results dealing with mail surveys. Since newspapers routinely receive and publish letters to the editor from their readers, editors may have perceived "mail survey" to mean "mail feedback." Thus, letters to the editor may have come to mind rather than mail surveys for the newspaper editors responding to our survey.

While newspapers reported using mail surveys more often than television stations did, the editors' responses to our survey did not reveal the purposes behind this higher usage. As Table 5 shows, none of the editors' responses on the purposes behind the mail surveys were significantly larger than the directors' responses. In fact, all five of the purposes for using mail surveys that produced statistically significant differences show television news directors reporting the purposes more often than newspaper editors. In other words, newspapers may have used mail surveys more often than television stations overall, but the reason behind this finding is not evident here. Again, television stations used mail surveys for news tips, to promote the station image and to increase ratings and demographics more often than newspapers reported these purposes.

Finally, newspapers report using focus groups for setting the coverage agenda, expanding news choices and giving readers control more than television stations did. Again, focus groups are a more traditional method of gaining feedback from consumers, and thus, newspapers in the present study reported using this more traditional method. Why newspapers used this method for news choice issues, however, is unclear. Perhaps newspapers feel better about getting ideas for news coverage patterns from small groups of readers than from a mail survey and/or the internet. In addition, some newspapers use focus groups as the topics of stories -- labeling the priorities of these focus groups "The Citizens' Agenda." According to our findings, editors find this more intimate, small group setting more useful in gauging reader concerns than other feedback methods.

As revealing as the purposes behind the use of the four interactive feedback methods found here are the purposes that were not mentioned by respondents. Few editors or news directors looked at feedback channels as a way to reduce news costs. Few looked at feedback channels as a tool for finding ways to use their staffs better. In addition, few editors used the feedback methods to allow readers to pick news stories and/or set coverage agenda. This trend in our findings may be due to an overall anxiety among journalists that they are losing their social influence. Indeed, sources such as President Clinton are increasingly speaking directly to the masses, thus circumventing the media. Perhaps newspaper editors are more concerned about losing their role as the nation's agenda-setters more than television news directors are.

Taken as a whole, the results here show a number of insights into the use of feedback channels in newspaper and television newsrooms. Foremost is the conclusion that television stations looked at feedback channels most often as ways of getting news topics and coverage ideas from viewers. Newspapers were significantly less likely to get reader feedback for these purposes. Several explanations here are plausible.

First, the results here may tell us something about staff size. Newspapers, with their larger news staffs, may not need tips about where to find news as much as television stations. Newspaper reporters, in other words, have the time and resources to find their own stories. Television reporters, however, may be more reliant upon viewer input and thus be more likely to check out news leads reported by viewers simply because of time constraints.

Second, newspapers may feel a stronger impulse to retain the power of story selection. Newspaper editors may feel that they alone should be entrusted in selecting the news, and that readers' tips are not very useful.

Finally, the newspaper editors here may simply have been more honest. It should be noted that what a news manager says and what actually happens in the real world are often two different things. While television news directors say they use viewer feedback for news tips, this does not necessarily mean that the television stations actually use the news tips to create stories. Indeed, any newsroom on any given day may get several messages from news consumers about what they think would make a good story. The vast majority of these messages never actually make it onto a medium's news agenda, however.

The age of interactivity between news consumer and news media is just beginning. What the future holds, obviously, is unknown. However, from the results here, it appears that television stations are trying to stay on top of the interactive wave, much more so than newspapers. Future research should continue to examine differences across media in their usage patterns of new technologies.

Table 1. Adoption of "interactivity" for television stations and newspapers.

Email	**Television**	**Newspapers**
Use now	36.4%	25.1%
Plan to use	35.7%	26.0%
No plans	27.8%	48.9%

$X^2 = 9.32, p = .009$

Phone line	**Television**	**Newspapers**
Use now	70.8%	46.2%
Plan to use	6.5%	5.8%
No plans	22.7%	48.0%

$X^2 = 14.22, p = .001$

Focus groups	**Television**	**Newspapers**
Use now	40.9%	51.6%
Plan to use	11.7%	13.9%
No plans	47.4%	34.5%

$X^2 = 3.21, p = ..20$

Mail surveys	**Television**	**Newspapers**
Use now	23.7%	46.2%
Plan to use	3.8%	10.8%
No plans	72.5%	42.6%

$X^2 = 17.94, p = .001$

Table 2. Purposes of using email/internet for television stations and newspapers.

Purpose	Television	Newspapers	X^2
Get news tips	69.5%	24.1%	40.65***
Promote station/ newspaper image	62.3%	17.9%	38.52***
Promote station image			
Run news/opinion polls	29.5%	9.4%	12.74***
Let viewers/readers pick stories	10.4%	5.4%	1.80
Set coverage agenda	20.9%	6.7%	8.14**
Reduce news costs	2.4%	3.1%	0.21
Expand news choices	30.0%	23.3%	1.28
Give viewers/readers control	30.4%	17.9%	3.95*
Use staff better	15.2%	12.1%	0.39
Increase ratings/circulation	31.9%	13.5%	8.16**
Improve demographics	35.2%	10.8%	14.94***

* – $p < .05$
** – $p < .01$
*** – $p < .001$

Table 3. Purposes of using phone lines for television stations and newspapers.

Purpose	**Television**	**Newspapers**	X^2
Get news tips	88.0%	47.5%	34.95***
Promote station/ newspaper image	46.2%	33.2%	3.54
Run news/opinion polls	71.1%	30.9%	32.43***
Let viewers/readers pick stories	12.4%	9.4%	0.48
Set coverage agenda	17.3%	15.2%	0.15
Reduce news costs	6.2%	10.8%	1.61
Expand news choices	27.1%	28.3%	0.05
Give viewers/readers control	29.3%	28.7%	0.08
Use staff better	22.2%	19.3%	0.28
Increase ratings/circulation	37.7%	27.8%	1.83
Improve demographics	33.3%	20.2%	4.34*

* -- $p < .05$
** -- $p < .01$
*** -- $p < .001$

Table 4. Purposes of using focus groups for television stations and newspapers.

Purpose	Television	Newspapers	X^2
Get news tips	16.3%	19.3%	0.31
Promote station/ newspaper image	28.6%	39.5%	2.21
Run news/opinion polls	11.2%	14.3%	0.41
Let viewers/readers pick stories	6.8%	11.2%	0.98
Set coverage agenda	21.0%	41.7%	10.22**
Reduce news costs	0.7%	4.0%	0.82
Expand news choices	12.3%	27.4%	6.24*
Give viewers/readers control	14.1%	34.1%	9.90**
Use staff better	17.0%	28.3%	2.87
Increase ratings/circulation	27.8%	30.0%	0.07
Improve demographics	24.6%	28.7%	0.41

* -- $p < .05$
** -- $p < .01$
*** -- $p < .001$

Table 5. Purposes of using mail surveys for television stations and newspapers.

Purpose	**Television**	**Newspapers**	X^2
Get news tips	36.2%	9.4%	20.90***
Promote station/ newspaper image	80.0%	25.1%	60.65***
Run news/opinion polls	35.0%	26.9%	1.15
Let viewers/readers pick stories	16.2%	7.6%	2.32
Set coverage agenda	40.0%	21.5%	6.76**
Reduce news costs	1.2%	4.9%	1.35
Expand news choices	21.2%	16.1%	0.53
Give viewers/readers control	25.0%	22.9%	0.11
Use staff better	26.2%	18.8%	1.03
Increase ratings/circulation	60.6%	30.9%	16.93***
Improve demographics	55.0%	20.2%	24.66***

* -- $p < .05$
** -- $p < .01$
*** -- $p < .001$

Digitized Source Materials for News Stories:
How do digital technologies affect media routines?

by David R. Thompson, Ph.D.

March 1996

Paper presented to the Association for Education in Journalism and Mass Communication Annual Convention, Communication Technology and Policy Division, August 10-13, 1996, Anaheim, California

New Address:
David R. Thompson
3808 Hyde Park
Columbia, MO 65201
VOX: (573) 449-6121
E-mail: StockCar48@aol.com

This research partially supported by a grant from the University of South Carolina Research and Productive Scholarship Fund.

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Abstract

This pilot study extends Shoemaker & Reese's model of influences on media content by arguing that technology should be a factor at the media routines level.

Does the modality of source materials (traditional vs. digital) affect performance of a story outlining task?

No difference was found between conditions for time to complete the task, number of items selected, or number of photographs selected. The only significant difference: Subjects were more likely to select digitized audio clips than to select information on audiocassettes when considering source material to include in a news story.

Digitized Source Materials for News Stories: How do digital technologies affect media routines?

This paper reports a pilot study of the effects of new technology on mass communications. Other researchers have begun to study communications policy and implementation of Information Highway infrastructure. This study examines technology's effects on the way print journalists conduct their story production routines.

The basic question is: Is there a cause-and-effect relationship between the format of media source materials (traditional vs. digital) and performance of the process of selecting and outlining media content?

Neither online resources nor computer-assisted reporting are considered in this research. This study assumes "no change" in tried-and-true reporting methods.

However, information gathered during the reporting process may be stored and retrieved in digital form for use during the writing and editing processes. This digitized information may include text, photographs, and audio "sound bites." Digital video may be used, but digital video is not a variable in this study.

For media researchers, the question is no longer "Can the industry be digitized?" The question is: What are the consequences of practicing digital journalism?

For media professionals, the questions become: In this age of convergence and collaborative reporting (where one reporter may gather information that will be used for a variety of media products — print, radio, television, and online), what are the advantages and disadvantages of applying digital technologies to news routines? What are the advantages and disadvantages of storing all source materials in a binary or digital format?

The independent variables used in this study are: 1) condition — traditional or digital; 2) education level; 3) experimental order; 4) frequency of publication (of the newspaper that employs the subject); 5) years of professional experience.

The dependent variables used in this study are: 1) time (in seconds) to complete the outlining task; 2) number of items selected; 3) number of photographs selected; 4) number of audio clips selected.

Literature

Moeller (1995) describes the Raleigh (North Carolina) News & Observer's applications of digital technology in the newsroom. Along with increasing use of digital technology to create databases and to develop online information services, "multimedia projects" are being undertaken. Moeller reports that the series called "North Carolina Discoveries ... ran in the paper, aired on local radio and television, and was uploaded onto the Internet via NandO, the paper's online service."

Moeller continues:

> N&O reporter Julie Ann Powers points out that the project required broadcast skills that are unfamiliar to traditional print reporters.
>
> "From the very beginning of the process it [the reporting] is different," she says. "I had to think in terms of sound and motion as well as whether it would support a full length story in the paper."
>
> Sound, which is not a factor for print stories, proved a major new concern, she says, as did the need to compensate for the lack of visual elements in radio stories and, to some extent, print stories." ...
>
> N&O State Editor Ben Estes stresses that the series, which was an "invaluable experience," was still a test run. "I view this in a lot of ways as an experiment getting us ready for things to come."

According to the researcher's interpretation of this report, the News & Observer has experimented with "things to come." But, the News & Observer has not made the leap to digitize all source material for editing and production. Apparently, they are still working with videotape, audiotape, perhaps digital photography, and digital text (word processed).

Moeller acknowledges changes in the News & Observer's news routines.

This study, however, anticipates the time when such multimedia projects are conducted in an entirely digital format. No videotape. No audiocassettes. Just disks (that store a great deal of information).

Shoemaker and Reese (1991) present a theory of influences on mass media content. Their hierarchical model (p. 54) presents five levels of influence on media content: individual, media routines, organization, extramedia, and ideological.

This pilot study applies that theory and examines the media routines level.

Shoemaker and Reese define *routines* as "those patterned, routinized, repeated practices and forms that media workers use to do their jobs" (p. 85). Routines "form the immediate environment within which media workers carry out their jobs" (p. 112).

To oversimplify their argument, media routines include story structures, deadlines, news values, defensive routines used to prevent offending the audience, practices of attribution, the gatekeeping process, use of wire services, and source-oriented routines such as press conferences (pp. 85-111).

This study argues that technology used by media professionals should be considered part of that "immediate environment within which media workers carry out their jobs." By extension of Shoemaker and Reese's theory, this study argues that technology may be an influence on media content at the media routines level.

Although an extensive review of existing literature on the writing and editing processes — especially computer-assisted writing — was conducted, this author has determined that those studies did not address the variables addressed in this study.

The experimental task conducted in this research was: Using [this set] of source items, select and outline those materials to demonstrate the structure of a news story with [this lead].[1]

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[1] This may be similar to Scott et al's (1994) "broad conceptualization (planning the overall article)" stage of the writing process.

This study addresses the basic question:

> **R1 :** Is there a cause-and-effect relationship between the format of media source materials (traditional vs. digital) and performance of the process of selecting and outlining media content?

In this experiment, no attempt was made to identify or measure a cognitive distinction between the processes of "selection" and "outlining."

Heeter (1989, p. 231) states: "Person-machine interactions are a special form of communication."

Heeter argues for conceptualizing communication models to include six dimensions of interactivity: 1) the extent to which users are provided with a choice of available information, 2) the amount of effort users must exert to access information, 3) responsiveness to the user, or the degree to which a communication exchange resembles human discourse, 4) the potential to monitor system use, 5) the degree to which users can add information to the system that a mass, undifferentiated audience can access, and 6) the degree to which a media system facilitates interpersonal communication between specific users.

Heeter presents an interactive model of the overall communication process. However, given that the writing and editing processes are forms of "interaction" with source materials, this study may apply several of Heeter's concepts, particularly, the first, second, and fifth dimensions of interactivity.

According to Heeter, "many of the new technologies increase user choice as well as the amount of effort a user much exert to receive content."

To improve experimental control in this study, source items were held constant across conditions, so "user choice" (Heeter's first dimension of interactivity) should not be increased in the digital condition of this study.

But if new technologies increase the amount of effort a user must exert to receive content (Heeter's second dimension of interactivity), and if "effort" takes time,[2] then this study may find increased time needed to select and outline source items presented in the digital condition. Therefore:

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[2] The idea that cognitive effort takes time is well documented in cognitive psychology literature and mass communication studies that use reaction time tasks. For one example, see Measuring Psychological Responses to Media (1994), edited by Annie Lang, Lawrence Erlbaum, Hillsdale, New Jersey.

H 1: Subjects who use digitized source materials will need more time to complete the experimental task than those who use traditional source materials.

Heeter refers to electronic bulletin boards when discussing the degree to which users can add information to the system that a mass, undifferentiated audience can access (the fifth dimension of interactivity).

Given that a newsroom may represent a private or proprietary network, electronic storage of source items should increase the degree to which items may be added to the system. Then these items may be used by others on the network.

For example, updating information on breaking stories may be facilitated by feeding this information to a server. Electronic access to wire services serves this function now. Such wire services provide text, photographs, or information graphics.

This study extends that idea to include the possibility of providing digitized audio to the network. Although not included in this study, digital video may be uploaded to the network.

In other words, journalists easily may add to the pool of available information by digitizing all their source material and by making that information available to others on their network.[3] Eventually, by digitizing source materials, the process of feeding stories to a variety of media — print, radio, television, online — may be streamlined.

In this experiment, the number of source items was held constant across conditions to improve experimental control.

Method

A randomized block design was used. (See Figure 1.) Subjects were randomly assigned to experimental orders.

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[3] Powell (1993) argues that digital newsrooms are creating new challenges and opportunities for newsroom managers. According to Powell, "journalists anywhere in the world can get text, still photos or video, edit that material into stories and then send the stories to printing plants, television stations, cable headends and telephone switching centers."

Figure 1 Randomized Block Experimental Design

		Treatment	
		Traditional	Digital
Order	1	Subject*	Subject
	2	Subject	Subject
	3	Subject	Subject

* Subjects were randomly assigned to orders.

Subjects

Forty-eight subjects participated in this experiment.

The study was conducted at the South Carolina Press Association's Winter Meeting (March 1996, Columbia, SC). Subjects were recruited by 1) an advance mailing and 2) personal contact at the press association conference.

Although there were several college students in the subject pool, most of the subjects were professional journalists.

The youngest subject was 19 years old; the oldest subject was 72 years old.

Subjects had from "less than one" year to 44 years of professional experience.

Upon completion of the experimental session, each subject received a coupon for a free beverage (not necessarily alcoholic) at the convention hotel's restaurant/bar.

Apparatus

To prepare and present the traditional stimulus materials, text was typed into a word processing file, audio was recorded on a Panasonic microcassette recorder, photographs were scanned using a Adobe Photoshop 3.0 and Microtek ScanMaker 600ZS. The images were scanned at 300 dpi at 100 percent scale in grayscale.

The text and image files were printed on a Xanté 1200 dpi grayscale printer.

To prepare and present the digital stimulus materials, the same text files were used. The same scanned images were used, however, they were resized and saved as GIF files.

The digital audio was recorded using Sound Machine 2.1. The digital and microcassette recordings were made at the same time to avoid time and inflection differences. A separate microcassette tape was used for each short audio clip.

HTML-Pro was used to create the hypertext links for the digital source materials.

Netscape 1.1N was used to present the HTML, GIF, and AU (audio) files.

This was not a network application. The computer used to present the stimulus materials to the subjects was "self contained." Netscape software was simply used to open files that were stored on the same computer.

Apple 14-inch color monitors were used, although all the stimulus materials were black-and-white.

Two Macintosh PowerMac 7100/66 computers were used to present the stimulus materials.

To accommodate the experimental setting — at the press association convention — two sets of materials were created for each condition. Therefore, the experimenter and his research assistants could run four subjects simultaneously — two traditional and two digital.

Stimulus Materials

Stimulus materials (See Appendix.) were constructed by "deconstructing" an existing news story. This story appeared in the weekly newspaper produced by journalism students at The University of South Carolina.

This story was selected because: 1) Its length allowed the researcher to identify facts or quotes that could be labeled for use as source items.
2) Enough photographs were available to provide four choices to the subjects.
3) The content was about a year old. This reduced possible confounds from recent coverage of the topic by other news media. 4) Admittedly, it was convenient to use this story.

The experimenter wrote a lead for the story. This lead was provided to the subjects as part of an "index" of source items.

This index included: a short line of instruction, the lead, reference to the two audio items, reference to the text items, and photo slugs.

In the traditional condition, this index was printed on paper. The index, text items, thumbnail photos, and full-sized photos were printed on paper and stapled. The audio clips were accessed by loading a tape into a tape player.

In the digital condition, this index was set up as a "home page" on Netscape 1.1N. The audio clips, text and full-sized photos were accessed by hypertext links.

Twenty-six text items, lettered A-Z, were provided. These items were grouped by information source. The order of the items within each group was randomized. Then, the order of the groups was randomized.

For example, a source named Hugh Weathers may have provided seven "facts" or information items. In one condition, this group of seven items may have been lettered A-G. In another condition, this group of seven items may have been lettered T-Z. However, item A and item T were not likely to be the same "fact."

No attempt was made to assure "equivalence" of these items. Some were quotes. Some were facts or statements. These text items were identified as "reporter's notes."

In the traditional condition, the text items were printed on paper. In the digital condition, the text items were presented on a computer screen.

Two audio clips were constructed. These audio items were identified as short selections from interviews with sources. One of the audio clips was about 22 seconds long. It contained three "facts" that were also presented as text items. The second audio clip was about 14 seconds long. The information presented in this second audio clip appeared nowhere else.

The "format" for each audio clip was: 1) a quote from the source; 2) the reporter asking the source's name; 3) the source's response; 4) the reporter asking the source's age; and 5) the source's response.

In the traditional condition, each audio item was presented on a separate microcassette tape. Of course, a microcassette tape player was provided.

In the digital condition, each audio item was saved as a separate file that was recorded and played with SoundMachine 2.1 software. So digital sound files were stored and accessed on computer.

Four photographs were provided — two horizontal and two vertical photos. These photos were presented as thumbnails and as full-sized photos.

In the traditional condition, the four thumbnails (horizontals were 1.5-inches wide; verticals were 1-inch wide; depth varied because of cropping) were presented on the same printed page. The full-sized photos (horizontals were 7-inches wide; verticals were 5-inches wide; depth varied because of cropping) followed the thumbnails.

In the digital condition, the photographs were saved as GIF files and presented with Netscape 1.1N. Each thumbnail had a hypertext link to its full-sized photograph.

In the digital condition, the horizontal images were saved as 0.3-inches wide as thumbnails and saved as 1.5-inches wide as full-sized images. The vertical images were saved as 0.2-inches wide as thumbnails. The full-sized digital images were saved as 1-inch wide. Again, depth varied because of cropping.

Procedure

Each subject was randomly assigned to condition — either traditional or digital.

After reading and signing a consent form, each subject was instructed that this experiment involved outlining a news story based on a set of source materials provided by the experimenter. Each subject was provided enough material for a 12-inch news story, but each subject was instructed to outline an 8-inch story. So, the experimenter expected each subject to cut about one-third of the available material.

Subjects were told they could use as many photographs as they felt were appropriate.

Subjects were instructed to assume the story was "timely and newsworthy."

The subjects were introduced to a sample story that demonstrated the "index" of source items, the audio clips, text items, and photographs.

Subjects were instructed to "work carefully but as quickly as possible. Pretend you're under deadline pressure."

The experimenter demonstrated the "interface." In the traditional condition, the experimenter demonstrated use of the microcassette player and introduced the subject to the other stimulus materials. In the digital condition, the experimenter demonstrated use of the scroll bar, hyptertext links, the "back" button, and the "forward" button.

Regardless of experimental condition, a printed "answer sheet" was provided. The subject was instructed to list each item in the order in which it would appear in the news story. The letters A-Z indicated text items. The name of the source (Weathers or Jackson) indicated audio items.

Use of photographs was indicated separately — not part of a formal outline. Subjects were asked to indicate which photo(s), if any, would be used. And they were instructed to indicate the relative size of the photos.

A practice story was completed. Then, the actual experiment was conducted.

A stopwatch was used to record the time spent with the story. And the experimenter recorded the "path" taken by the subject to outline the story.

Following the outlining task, subjects were asked to complete a short questionnaire about their personal and professional background.

Finally, a debriefing statement was issued.

The experimental session lasted about 15-20 minutes.

Results

This study addressed the basic question:

> **R1**: Is there a cause-and-effect relationship between the format of media source materials (traditional vs. digital) and performance of the process of selecting and outlining media content?

A MANOVA was used to analyze the data.

The independent variables used in this study were: 1) condition — traditional or digital; 2) education level; 3) experimental order; 4) frequency of publication (of the newspaper that employs the subject); 5) years of professional experience.

The dependent variables used in this study were: 1) time (in seconds) to complete the outlining task; 2) number of items selected; 3) number of photographs selected; 4) number of audio clips selected.

In general, the results of this study indicate no cause-and-effect relationship between the format of media source materials and performance of the process of selecting and outlining media content.

No overall effect was found for condition ($\underline{F} = 0.16$, df=3), education level ($\underline{F} = 0.81$, df=12), experimental order ($\underline{F} = 0.66$, df=6), frequency of publication of the newspaper that employs the subject ($\underline{F} = 0.86$, df=12), or years of professional experience ($\underline{F} = 0.99$, df=21).

No overall effect was found for gender, by the way.

No effect was found for the number of items selected or for the number of photos selected.

If, according to Heeter's second dimension of interactivity, new technologies should increase the amount of effort a user must exert to receive content, then this study should have found increased time needed to select and outline source items presented in the digital condition. This was the hypothesis tested by this experiment.

> **H 1**: Subjects who use digitized source materials will need more time to complete the experimental task than those who use traditional source materials.

This hypothesis was not supported. No effect was found for amount of time (in seconds) to complete the experimental task.

However, significant differences were found for the audio clips.

An interaction was found between condition and access of the audio clips. Subjects in the digital condition accessed audio clips more frequently than did subjects who could hear the audio clips on tape ($\underline{p} < .05$).

In the traditional condition, 10 subjects did not listen to either audio clip. Of those who did listen to at least one audio clip, no one in the traditional condition listened to any clip twice.

In the digital condition, only 3 subjects did not listen to either audio clip. Of those who did listen to at least one audio clip, four listened to an audio clip twice.

In addition, a main effect was found for use of audio clips in the outline ($\underline{p} < .01$). The sound clip that contained information not found in the text was listed in the outline more often than the "redundant" sound clip.

Discussion

The procedures used in this experiment did not allow on-screen editing. It is not clear whether this would or would not be a confounding variable.

Future studies may modify the procedure in the traditional condition to use hand-written notes and ask the subjects to type the items into the word processor in the order in which they would appear. In the digital condition, the subjects may perform differently using cut and paste commands.

Although no difference was found for time needed to complete the experimental task, there seems to be a perception that use of computers in the newsroom is "quicker" and "easier" than using traditional materials.

The questionnaire administered after exposure to the experimental conditions asked subjects to respond to the following: *In your experience, how has technology affected information gathering? editing and production routines? products and distribution?*

One subject wrote, "Revolutionized. When I started working in this field, we used linotypes and handset heads. At my first newspaper job, I wrote copy on a manual typewriter. We're faster and have access to far more information, so we can do a better job of delivering a product that will meet our customers' needs."

Another wrote, "It certainly made it faster and more accessible. More appealing, too. Therefore, efficiency has increased."

Not all the comments were entirely favorable: "It has made the entire process easier and faster. The only downside is the loss of staff as few people have been able to do more jobs. We are losing balance as the number of people working each story gets smaller."

Another wrote, "Use of computers for putting stories together sometimes blocks creativity."

A few subjects felt that the quality of news products was compromised by technology in the newsroom: "[Technology] benefits collection of information by providing source material, context, comparison much quicker, but causes some laziness from dependence. Increased demand of technology has decreased the amount of time editors — copy editors — have for quality editing of stories."

One subject reminded the experimenter that a machine is still a machine: "Too much emphasis is put on information since that's what machines can provide; not enough on meaning — only people can provide that."

The experimenter has argued that technology should be included as a factor in Shoemaker and Reese's media routines level of influences on media content. Some subjects commented on the impact of technology on deadlines.

One subject wrote, "Electronic photo has allowed us to push back deadlines to get later stories in before final publication time."

Another wrote, "Improved dramatically ability to meet deadlines with quality. Can hold newspaper longer before going to press and meet later deadlines. More freedom to experiment with design."

The post-test questionnaire also asked subjects to comment on their feelings about the impact of technology on their work routines. Again, comments were varied.

One subject wrote, "It's a marvelous headache!"

Another's response was, simply, "Stress!"

Yet another said, "I love computers. I have no use for tape recorders. I think we should listen & take notes."

Photographers, in particular, seem to appreciate digital technology: "Really helped it in that photogs are now out in the newsroom instead of squirreled away in the dark. We're seen more as professional equals. Helped make deadlines easier, and with Photoshop, etc. more control over the final product than with traditional printing. We can get pictures never before possible and spend more time on the 'front line' instead of in the lab."

So far, professional print journalists (in South Carolina, at least) are not mentioning convergent media and possible applications of digitized source materials as a "homogenous" format for storing information that may be applied to print, broadcast, and online products.

In fact, one subject wrote, "Technology is a great asset, but until real applications are found, other than pagination and layout, it will simply be relegated as a novelty."

This researcher argues that "real applications" are at hand. This is supported by the subjects' use of the digital audio clips ... and "non-use" of the taped audio clips.

Despite the experimenter's instructions about the format of the taped audio clips, several subjects said, "Is that all? I was afraid I'd have to listen to the whole tape."

Digital audio clips are easier to access. The interface is friendly — a click of the mouse rather than the two-handed process of loading and playing a tape. As always, the content may or may not be particularly helpful.

The mass media profession is headed toward convergence. Perhaps traditional media products will not change. Newspapers will be printed.

Radio will be broadcast. Television will be broadcast. And, yes, online information services will be developed in some form.

In this researcher's opinion, the immediate, "real application" of digital technologies should happen at the media routines level. Every source item may be digitized and stored on a computer. That would create a homogenous format for information that could be used by any and all media — print, broadcast and online.

The results of this study show no clear advantage for digitized source material. On the other hand, the results show no clear disadvantage.

An ad hoc analysis of the results does show a greater level of frustration for the traditional condition. Two of the 24 subjects in the traditional condition "gave up" after selecting four or five text items. No one in the digital condition "completed" the outline before selecting 10 items.

A replication of this pilot study — away from a convention setting — is recommended. An extended experimental session that includes outlining different story types (news, sports, entertainment, for example) would be helpful.

Also, future studies may attempt to identify and measure a cognitive distinction between the processes of "selecting" information for use in a news story and "outlining" the news story.

This experiment did not assess the quality of the news stories "generated" by traditional and digital source materials. Are stories constructed from computerized source materials organized differently from those constructed from traditional source materials?

A future study will examine which stories — those constructed using traditional or digital source materials — are perceived by audiences as more complete, objective, and fair.

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Appendix

Subject #________

Cow Story

Outline an 8-inch story using items selected from these materials ("standard" 14 pica column width).

To outline your story, please put the letter of the selected items in the order in which they would appear in your story. Indicate "Weathers" or "Jackson" for audio.

OUTLINE

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NOTES

Photo Use photo slug and indicate relative size of photo(s) where 1=Dominant and 4=(smallest)

________ ________
________ ________

slug: cow

Enough notes, sound files, photos for a 12-inch story. But the hole is only 8 inches. Select and Outline source items for an 8-inch story with this lead:

LEAD: Treating cows with growth hormones is not only safe for cows and humans but may be even healthier for consumers than no treatment at all, a National Institutes of Health report said.

Audio
    Hugh Weathers
    Elaine Jackson
Text
    reporter's notes, quotes and facts
Photos
    1. pen
    2. milk
    3. face
    4. feet

A. BST is a natural ingredient in milk, according to an article in FDA Consumer Magazine

B. FDA Consumer Magazine Article: "(BST) is produced by the pituitary gland and has always been present in the meat and milk of cows." When injected to increase milk production, BST "merely increases the amount to which the cow is exposed."

C. FDA Consumer Magazine article title: Bovine Growth Hormone: Harmless for Humans, published October 1994

D. BST injections simply increase the cow's hormone level, according to an article in FDA Consumer Magazine.

E. Not only is milk unaffected, but meat from cows is positively affected, according to the NIH report.

F. Bovine somatotropin, BST, is a genetically engineered hormone used by some dairy farmers to increase milk production in cows.

G. BST concentrations in milk are no higher in treated cows than in untreated cows, according to NIH research.

H. BST injections increase average milk production by at least 10 percent, according to NIH research.

I. Meat derived from treated cows is lower in fat content than meat from untreated cows, according to the NIH report.

J. Growth hormones must be injected rather than ingested because they are proteins and will break down in the cow's digestive system and become ineffective, said a report conducted by the U.S. Department of Agriculture.

K. Why injections?

L. Weathers Farm supplies milk for Coburg Dairy

M. Weathers: "I feel like it's a positive economic thing for us."

N. Weathers said the extra revenue brought in by the additional milk more than covers the cost of buying the hormone and the labor involved in injecting the cows.

O. Injections are madethrough a layer of skin into a cavity located near the cow's tail

P. Hugh Weathers owns Weathers Farm in Bowman, South Carolina

Q. Weathers: "The public has weighed in, and they vote with their pocketbooks. The bottom line is whether someone will buy the product."

R. Weathers said injections are "painless"

S. Weathers [paraphrase]: The public's concern over the use of the hormone stemmed from "feel-good concerns" about using a synthesized product more than from health and safety worries.

T. public concerned about use of growth hormones

U. Weathers: "Milk is the most tested product before it gets to the grocery store shelf of anything out there. The controversy is not there, and now it's simply another avenue for us."

V. Weathers [paraphrase]: Only about 1 percent of consumers have changed their buying habits because of growth hormone use [in cows, not consumers].

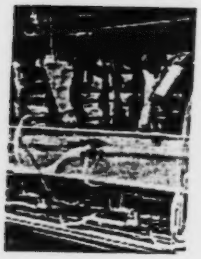
W. Weathers has 750 cows

X. Weathers' cows are injected with BST every two weeks.

Y. Weathers said he has used BST since it was approved by the Food and Drug Administration in February 1994.

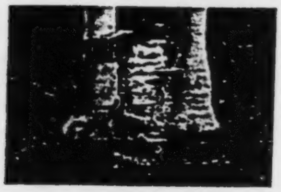
Z. Needle: 18- to 20-gauge (relatively small) used for injections

1. pen



2. milk

3. face



4. feet

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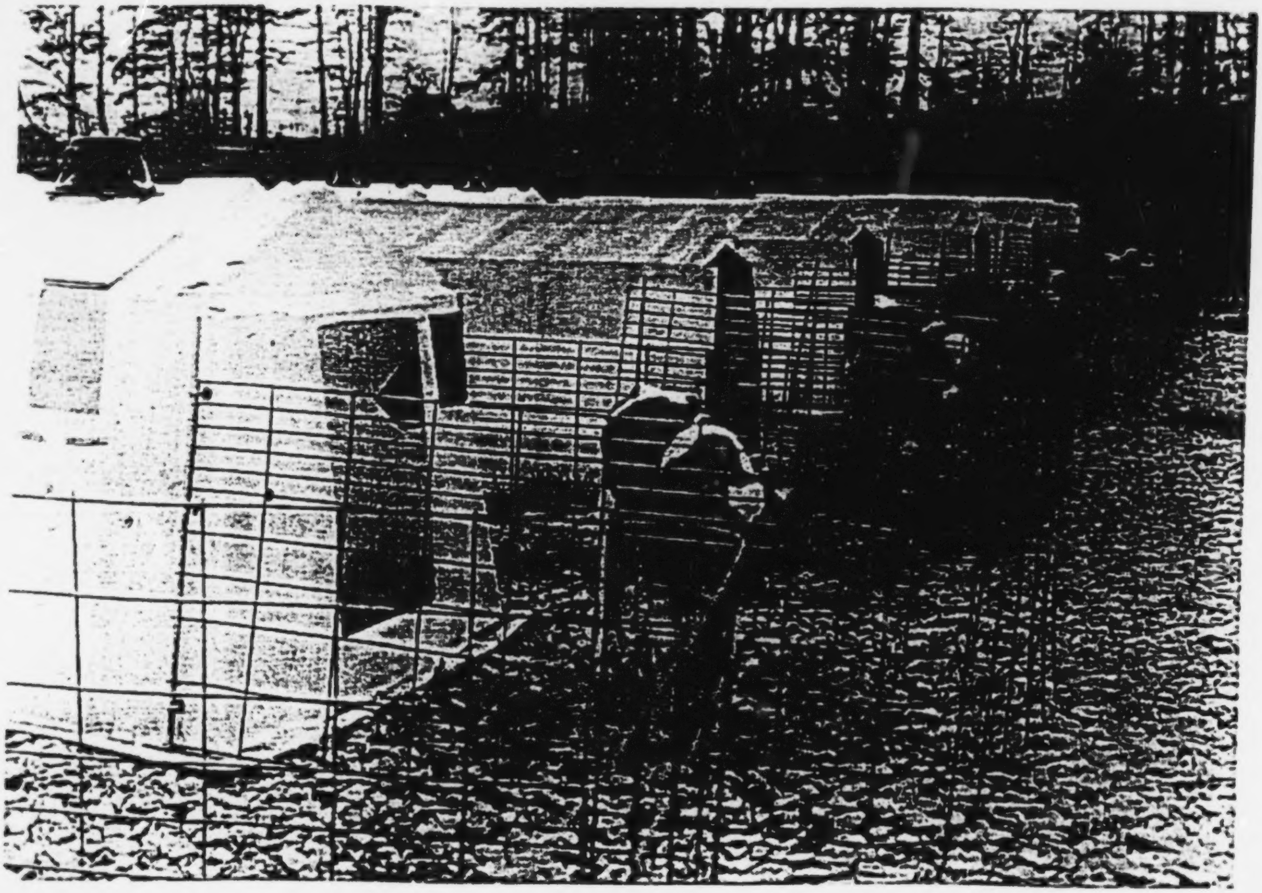

1. pen

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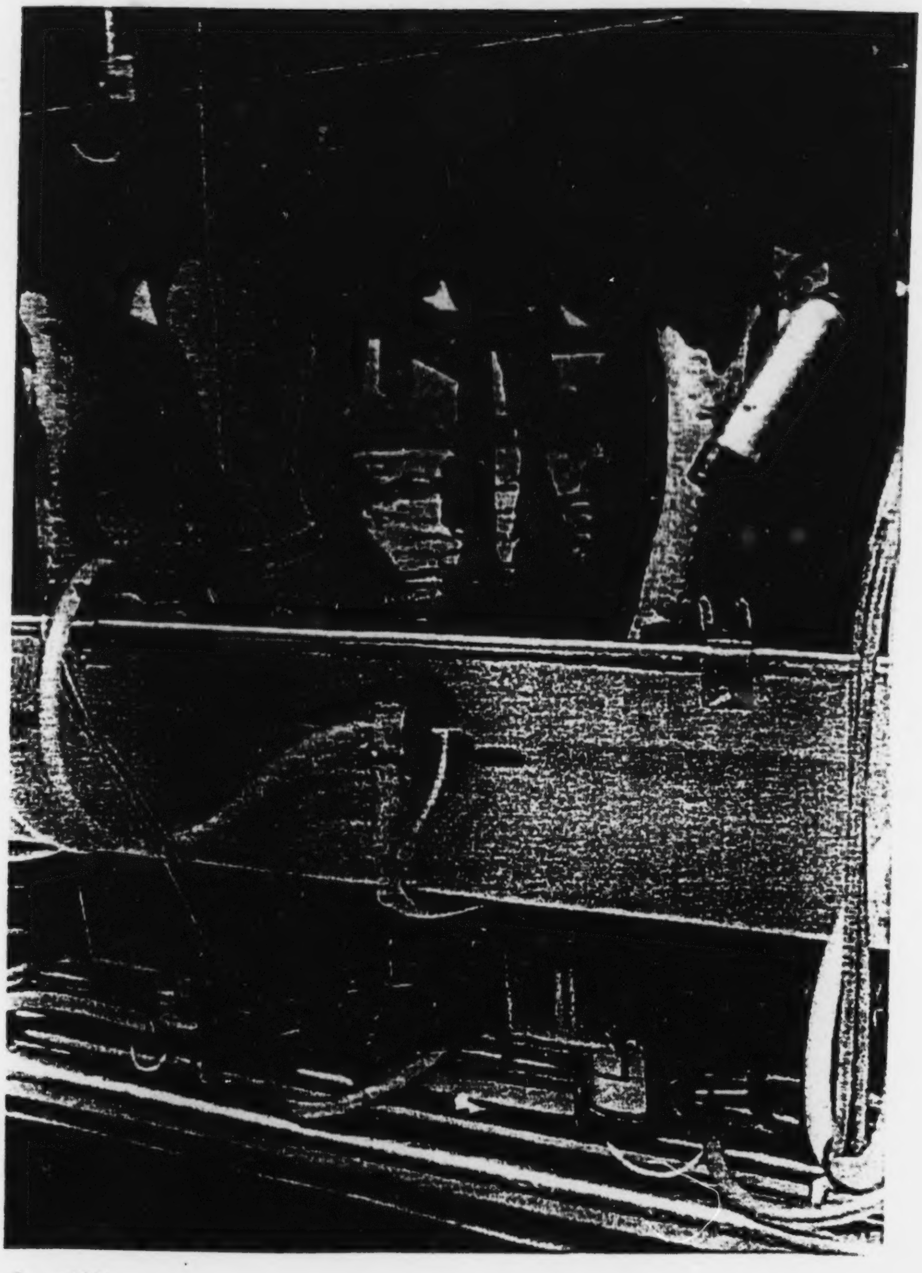

2. milk

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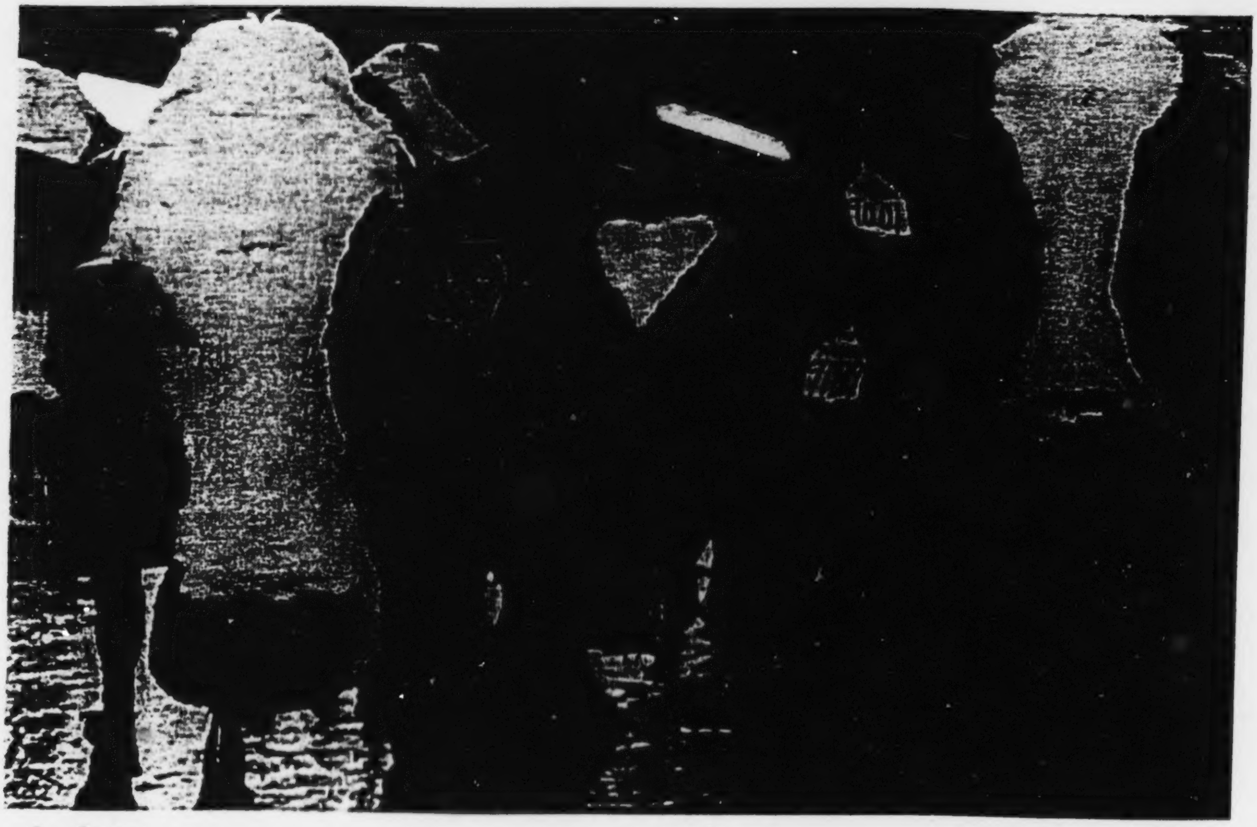

3. face

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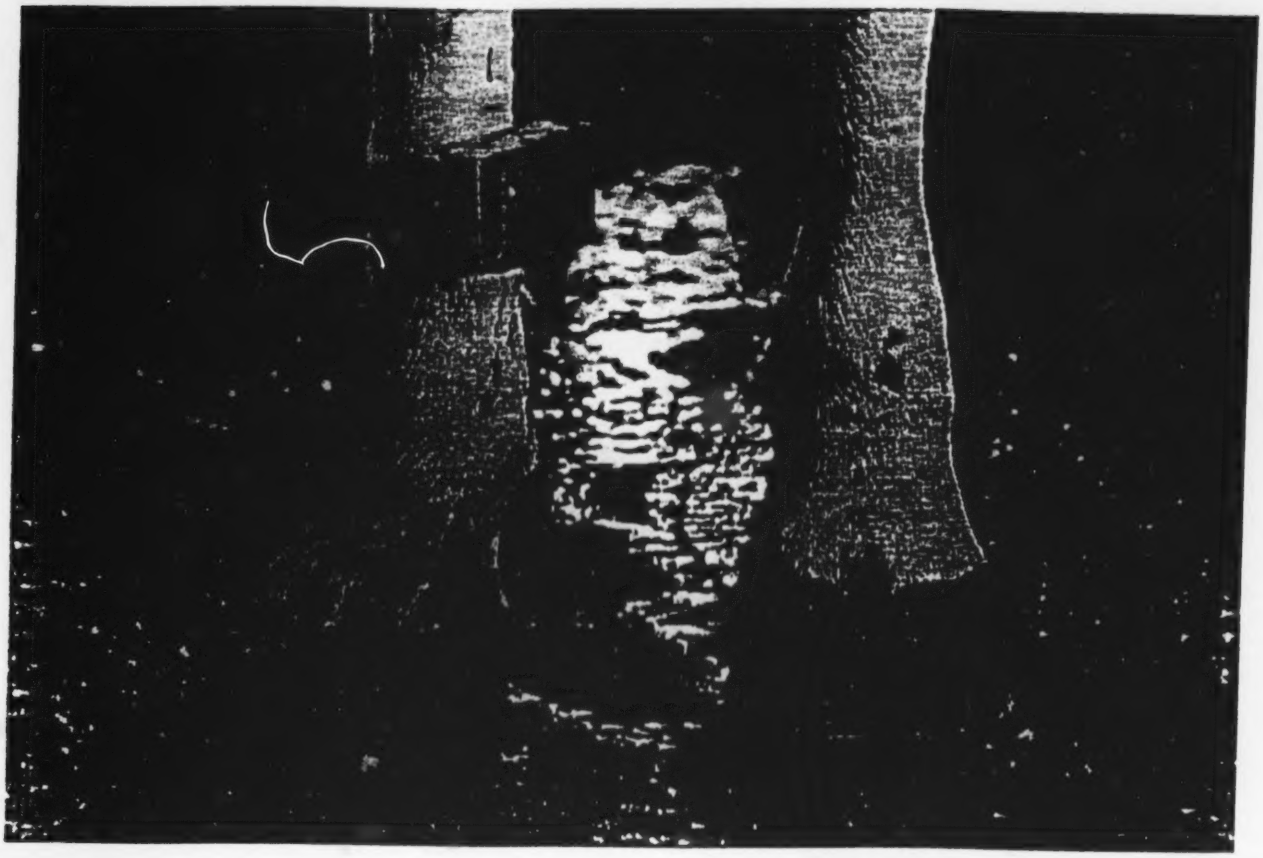

4. feet

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DO QUOTES AFFECT PERCEPTION OF ONLINE NEWS STORIES?

S. SHYAM SUNDAR
Assistant Professor
College of Communications
PENNSYLVANIA STATE UNIVERSITY
219, Carnegie Building
University Park, PA 16802

Voice: 814-865-2173; E-Mail: sss12@psu.edu

Paper presented to the Communication Technology & Policy Division
AEJMC, Anaheim, CA, August 1996

Are quoted sources in online news as psychologically meaningful as those in printed news and broadcast news? A within-subjects experiment was designed to answer this question. On a web site, subjects (N=48) read three online news stories with quotes and three without. They rated stories with quotes significantly higher in credibility and quality than identical stories without quotes. However, quotes did not seem to affect their ratings of liking for — and representativeness (newsworthiness) of — online news.

Most online users receive "news" from various sources — electronic mail from cyber-acquaintances, mailings from distribution lists, newsgroup postings, web sites and a growing number of online news services. Given such a multiplicity of sources, it is likely that online users may not be psychologically capable of remembering which source supplied which piece of information or news. That is, they may not store information content along with source attribution in their long-term memory. This phenomenon is similar to Hovland's source-containment sleeper effect whereby the source is said to be disassociated from the message over time such that the effectiveness of the positive source decreases while that of the negative source increases (Hovland & Weiss, 1951; Kelman & Hovland, 1953).

Applied to the context of online news delivery, the sleeper effect may result in the "I-read-somewhere-that" phenomenon wherein users may use information obtained by online means in their non-online lives without adequately adjusting for the validity or credibility of the information based on who or what the source is. An important implication of this phenomenon is the gradual decline in the psychological importance of sources in online news stories. While sources represent the bread and butter of a news story in traditional media like print and broadcast, they may not be as important to users' judgments of the verdidicality of online news stories.

An experiment was designed to test this possibility. "Source" was operationalized as a person or institution quoted within a news story. The presence or absence of a quoted source constituted the independent variable. Users' evaluations of news stories constituted the dependent variable. The purpose of this experiment was to determine if the presence of quoted sources in online news stories made any difference to users' psychological conceptions of news content.

This paper will first explicate the concept of source and review past research on the psychological effects of quotes. Next, it will describe the development of psychological criteria for determining perceptions about news stories. It will then present the methods and results of an experiment designed to test the effect of quotes on the perception of online news stories.

"Source" in Communication Research

The concept of "source" is so integral to communication research that it is surprising that a literature search of the entire field failed to yield a single thorough explication of the concept. This is perhaps because the common-sense understanding of the term "source" has sufficed for most researchers. The Oxford American Dictionary defines "source" as "the point of origin" or "the place from which something comes or is obtained." It also offers a more media-centric meaning of "source": "a person or book, etc., supplying information." As these definitions imply, "source" need not necessarily refer to the sender in the SMCR models; it could even refer to the message or the channel, depending upon who or what is perceived by the receiver to be the source of the communication. As Chaffee (1982) points out, receivers do not differentiate clearly between a person who generates a message ("source") and one who relays a message that was created elsewhere ("channel").

This ambiguity in the psychological definition of source has led to a confusing multiplicity of meanings associated with the word "source." As Newhagen and Nass (1989) point out, a critical omission in the studies of source effects is that frequently no distinction is made between a person as a source as opposed to an organization as a source. This problem is compounded when some researchers (e.g., Carter & Greenberg, 1965; Abel & Wirth, 1977) treat the media channels (newspapers and television) as competing sources of information and influence.

In the media effects paradigm (e.g., Bryant & Zillmann, 1994), for example, the "source" of the communication is either a mass medium like television (e.g., Gerbner, Gross, Morgan & Signorielli, 1994), a media channel such as the *Washington Post* or NBC (e.g., McCombs, 1994), message content such as violent acts (e.g., Jo & Berkowitz, 1994), a human being modeling a certain behavior (e.g., Bandura, 1994), or a program genre such as comedy (Zillmann & Bryant, 1991).

The source credibility literature is equally broad in its interpretation of the term "source." A message source may be a person (e.g., Walter Cronkite), a group (e.g., a random sample of the US population), an institution (e.g., the Supreme Court), an organization (e.g., American Medical Association) or even a label (e.g., "conservative") that has a favorable or unfavorable connotation for the message recipient (Hass, 1988). In fact, the first study in this tradition, by Hovland and Weiss (1951), confounded source with media channel by comparing well-known publications with well-known individuals on a credibility dimension. This is because the experimenters did not distinguish along the humanness dimension of "source." Rather, they conceptualized "communicator" as being either high or low

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in credibility. Credibility was the independent variable of interest while persuasion was their dependent variable. In general, the source effects literature operationalizes source characteristics in three ways: credible versus not-credible; physically attractive versus unattractive; ideologically similar versus dissimilar (Wilson & Sherrell, 1993). This is done regardless of the fact that one of the values in a given dichotomy is a human being while the other is a mass media channel.

Other studies have conceptualized source as the image of the communicator (Sargent, 1965), as encoder and decoder (Papa & Tracy, 1988), as vocal attributes of the speaker (Addington, 1971), as social representations (Moscovici, 1984) and as anything other than self (e.g., Ackerman, 1992).

With the arrival of new communication technologies, there is yet another contender for the title of "source" — namely the physical manifestation of the technology itself. As Nass, Steuer & Tauber (1994) have summarized, receivers sometimes treat the medium itself (i.e., computer box or television set) as an autonomous source worthy of human social attributions.

Even communication receivers can be thought of as sources. The growing acceptance of the idea of an active audience has spawned a great deal of research that looks at communication as a dependent variable as opposed to an independent variable. Communication is sought to be studied as a function of audience activity. Audience activity includes everything from traits, dispositions and subjective states of audience members to the purposive selection of communication. The message learning approach to persuasive communication (Petty & Cacioppo, 1981, p. 60) sometimes attributes attitude change to such receiver characteristics as involvement, gender, and intelligence. Thus, the receiver (or his/her characteristics) constitutes the source of communication in this paradigm.

In selective exposure research (Zillmann & Bryant, 1985), the source of communication is the receiver. That is, the receiver initiates the communication by selecting the particular content to be consumed based on his or her affect, mood and other dispositions. Thus, it could be argued that regardless of who manufactured the content, the source of content remains the receiver. It follows that given the receiver's sense of perceived choice, the receiver's perception of content would be different from his or her perception of the same content selected by someone else (e.g., Eagly & Whitehead, 1972; Himmelfarb & Arazi, 1974; Jones & Brehm, 1967).

In summary, there are three dominant conceptions of source in the communication literature (see also Sundar & Nass, 1996). Source credibility researchers consider the *gatekeeper* as the source while technology researchers consider the *medium* or *channel* as the source. Selective exposure researchers consider the *receivers* as sources. According to Sundar (1995), none of these are truly original sources of communications. They are merely "selecting sources" that decide which news stories are consumed and which are not. In his typology, Sundar (1995) identifies only one "original source," and that is information provider *within* a news story, the person or entity that is quoted in the story. This definition is in line with what journalists refer to as "sources" in their parlance.

This paper will hencetoforth adopt the journalistic conception of "source." According to this conception, a source in the online news scenario is not America Online, CNN Interactive, or the computer terminal used to access the news. Instead, it is the entity quoted within the digital narration of a piece of news rendered by online means.

Quotes as Sources

For journalists, "source" represents the bread and butter of a news story. Journalistic sources are those people or organizations that are quoted in news stories. Editors constantly demand that reporters get "quotes" for their stories. "Quotes" are quotations from the right sources, from sources that would not only be relevant but also credible given the context. Getting quotes is a golden rule in all of journalism, regardless of the medium of news delivery (e.g., Jones, 1976; Newson & Wollert, 1985). While the print media publish the quotes, as far as possible within direct quotation marks and sometimes with photographs of the quoted "sources," the electronic media make elaborate arrangements to record sources for broadcasting. Sometimes, television crews travel hundreds of miles just to get a one-line quote from a source on camera. Even radio news stories often air quotes — if not directly from the source's mouth then by having somebody else other than the main newsreader say it — to lend veridicality to the stories. This phenomenon of "sourcing" is so integral to good journalism that a truly newsworthy statement of fact is rarely if ever published if it is not properly attributed to a legitimate source (e.g., Izard, Culbertson & Lambert, 1971; Fox, 1977). Ontologically then, the *original* source of a news story is the primary information provider in the form of quotations from the source. Psychologically, the effect of quotations is unclear.

Much of the journalistic preoccupation with source is premised on the belief that receivers actively monitor the source while processing and evaluating the piece of news presented to them. To that extent, journalists present themselves as mere conduits passing along information from sources to receivers. They treat themselves a part of the medium of transmission rather than as originators or sources of information.

Whether this assumption is psychologically valid is a question up for debate, especially given the research findings in source credibility and gatekeeping effects that emphasize the psychological effects of the information presenter over those of the content itself. That is, do receivers process sources embedded within news stories or do they evaluate journalistic information based on who delivers it to them? While there is substantial psychological evidence for receivers' bias in favor of human sources (as opposed to statistical sources) in the information processing and perceptions of story content (e.g., Hamill, Wilson & Nisbett, 1980; Zillmann, Perkins, & Sundar, 1992), the evidence on the effects of within-story sources on readers' evaluations of newsworthiness, story credibility, and other aspects of the story is inconclusive.

An experiment comparing direct quotes with paraphrases, for example, failed to yield differences on readers' ratings not only of story attributes such as accuracy, objectivity, believability, informativeness, and readability, but also of source attributes such as dramatic, informed, effective, colorful, precise, and emotional (Weaver, Hopkins, Billings & Cole, 1974). Another study found no differences in believability between the following three versions of the same news stories: with specific attribution to a named source, with general attribution to source consisting of a title but no name, and no attribution at all. The perceived accuracy of one of the two news stories in the experiment did vary with source attribution: The version with specific attribution was rated slightly but significantly more accurate than the other two versions (Hale, 1984). But, an earlier study had the reverse result: Stories without sources or with unidentified sources were rated more accurate and more significant, and subjects agreed with them more, than stories with a named source (Fedler & Counts, 1981).

Culbertson and Somerick (1976) found no differences in perceived accuracy or truthfulness between news stories with and without named sources. This is not to say that readers do not notice sources within news stories. In a later analysis, the researchers found that people tend to maintain a symbiotic relationship with news sources; regular readers tend more than others to depend on source attribution.

Specifically, they found that readers' "print-orientation" (i.e., greater reliance on — and preference for — print compared to other media) corresponded positively with attentiveness to sourcing in news stories (Culbertson and Somerick, 1977).

Gibson and Zillmann (1993) also found a medium difference when they investigated the effects of quotations upon impression formation. They found a big difference between quotations and paraphrases on issue perception, but this effect was observed for print and not radio. Subjects presented with quotations from sources questioning the safety of amusement parks perceived the overall safety of such parks to be less adequate than did subjects given the same information in paraphrased form, or without any sources.

The psychological effects of quoted sources within news stories can be summarized as follows: Readers, especially those with a print orientation, seem to notice sources of quotes as well as to form impressions based upon the sources' quoted remarks. However, their reliance upon quoted sources for evaluating the quality, credibility, and newsworthiness of news stories is unclear given the ambiguous findings in past research.

Psychological Criteria for Online News

Since this study attempts to find psychological effects, if any, as a function of within-story sources in online news, there is need to develop psychological criteria for determining the dimensions along which human receivers of communication differ in their consideration of content, specifically news content. In other words, what are the psychological determinants of news that distinguish between different news sources? When readers make processing decisions and evaluation judgments of news stories, what psychological variables are implicated? How do we know what to measure in a reader if we wanted to find out the psychological difference in the reader as a function of, for example, the credibility of the news source? Along which dimension(s) will a news user differ in his or her evaluation of two news stories that are identical in content but are delivered by two different sources?

Evaluation criteria for news stories are plentiful. While journalism textbooks prescribe a set of normative criteria for determining whether something is news or not, communication research has used a wide variety of attributes or characteristics to describe news.

In his textbook on news reporting, Mencher (1994) defines news in terms of news values such as timeliness, potential impact, prominence of people involved, proximity to audience, and novelty of the event. Almost all journalism textbooks consider accuracy (whereby all published information is verified), attribution (proper identification of information source), balance, fairness, objectivity, brevity, and clarity as essential components of a good news story (e.g., Brooks, Kennedy, Moen & Ranly, 1992). These criteria emerged as a consequence of the social responsibility era of the press, which began with the Hutchins Commission on Freedom of the Press stating in 1947 that what a free society needs from journalists is "a truthful, comprehensive and intelligent account of the day's events in a context which gives them meaning."

Academic research has also focused on the social responsibility role of news. Self (1988), for example, classified news in terms of its task: to give facts objectively, to explain the facts, or to report all sides of an issue fairly. Others have looked into particular aspects of news like accuracy, objectivity, believability, sincerity, bias, informativeness, readability, fairness, and truthfulness (e.g., Weaver et al., 1974; Burgoon, Burgoon & Wilkinson, 1983; Carter & Greenberg, 1965; Sargent, 1965; Culbertson & Somerick, 1976; Fedler & Counts, 1981; Hale, 1984; Austin & Dong, 1994). These qualities of news are typically used (in their adjectival form) as dependent variables administered to subjects or respondents on quantitative scales ranging from three to ten points. In addition to variables eliciting evaluations of stories, some studies have used variables that describe the self-reported effect of news stories upon subjects — variables such as happy, sad (e.g., LeBouef and Matre, 1977), pleasing, and disturbing (e.g., Leshner, 1994).

Taken together, the attributes used to describe a news story fall into four categories: Credibility, Liking, Quality, and Representativeness. The concept of credibility, as applied to a news story, may be defined as a global evaluation of the believability of the story (e.g., Wilson & Sherrel, 1993; Hovland & Weiss, 1951; McGuire, 1985; Gunther, 1987). Liking is overall affective reaction (e.g., Zajonc, 1980, 1984). Applied to a news story, liking is an indicator of a news receiver's feelings toward — or evoked by — the overall content of the news story (e.g., Nass, Reeves & Leshner, in press). Quality means the degree or level of overall excellence of a news story. It signifies an evaluation of the goodness of a communication message (e.g., Gibson & Zillmann, 1993, Leshner, 1994). Representativeness of a news story is a summary judgment of the extent to which the story is representative of the category of news. In other words, it is the answer to the following question: What is the probability that the story, taken as a whole, belongs to the class of entities that we call "news"? This definition of representativeness is borrowed from the work of Tversky and Kahneman (1974) on the representativeness heuristic, which is basically a relevancy judgment that, under uncertainty, produces a short-cut probability estimate for the question of the form, How probable is it that A belongs to category B? This heuristic neglects key relevant factors and instead relies on the degree of resemblance between the object A and the stereotype associated with category B. To the extent a story manifests features that are considered integral to the broad *psychological* notion of news, it would be considered a news story (e.g., Rosch, 1975, 1978; Tversky, 1977). That is, it would be judged as *representative* of news.

Method

This study investigates whether psychological reactions of communication receivers to online news stories will be different if the stories had sources quoted in them or not. Specifically, the present investigation looks for differences in receivers' ratings of credibility, liking, quality, and representativeness of the content as a function of the presence or absence of quoted sources through a within-subjects experiment. This is done by keeping content constant and by controlling for selecting sources. The context for this research is online news, the independent variable is Quotes (with two values — presence and absence), and the dependent variables are users' ratings of Credibility, Liking, Quality, and Representativeness of online news stories. In order to control for selecting sources, a fourth of the subjects were told that the news stories were selected by gatekeepers, another one-fourth were told that they were selected by the computer terminal, yet another one-fourth were told that they were chosen by other members (or users) of the online news service, and the final one-fourth were given a pseudo-selection task leading them to believe that the stories were chosen by themselves. Since the selecting source variable did not interact significantly with the independent variable on any of the dependent variables, it will not be discussed hencetoforth in this paper. (See Sundar & Nass, 1996 for details on the selecting source manipulation).

Subjects

Sixty-four undergraduate and graduate students enrolled in communication classes participated in the experiment. However, usable responses were obtained from only forty-eight subjects. Each subject was paid $10 for participation.

The experiment was administered to subjects in groups ranging in size from three to twelve persons.

All subjects were asked to sign the informed consent form before commencing the experiment. They were then instructed, as a group, to read six news stories through an online service and answer a paper-and-pencil questionnaire after every story. As promised in the consent form, all sessions of the experiment lasted a little under 45 minutes.

Design Overview

In an attribution style within-subjects experiment, all subjects were exposed to identical content, but half the content had one value of the independent variable (presence of quotes) while the other half had another value (absence of quotes).

Operationally, the design may be summarized as follows: All subjects read six news stories each on an online news service. Three of these six stories had quotes in them while the other three did not have any quotes. After reading each story, subjects filled out a paper-and-pencil questionnaire evaluating their liking for — and the credibility, quality, and representativeness of — the news story they had just read.

Experimental Treatment Conditions

As mentioned earlier, the independent variable had two within-subjects values — presence and absence of quotations in the news story. These two values will henceforth be referred to as *Quote* and *No-Quote*.

All subjects in the experiment read six news stories — one each in the following common categories of news: National, International, Local, Business, Sports, and Entertainment. Six news stories were created especially for this study by rewriting articles that had already appeared in mainstream newspapers. These stories were chosen because they were routine and would not evoke particularly strong negative or positive reactions. The national story was about a Supreme Court ruling in a child custody case, the international story concerned a family planning program in Iran, the local story related to funding for a highway link in San Jose, the business story centered around statistical data about American business productivity in the last five years, the sports story was about the Buffalo Bills' cheerleaders winning a ruling from the National Labor Relations Board to form the first employees union, and the entertainment story dealt with a television personality moving from one network to another.

All subjects in the experiment read the same six stories, with minor variations in attribution of quoted sources as described below:

Two versions of each of the six stories were created such that one had quotations and one did not. The stories were equated for content in an effort to make sure that the only difference between the Quote and No-Quote versions was attribution to a quoted source. For example, the Quote version of the business news story read as follows:

> WASHINGTON--American business productivity improved in 1994 for the fifth straight year, boosted by the largest output growth since 1984. At the same time, businesses held labor costs to the smallest gain in 30 years. Some observers say that this is "an indication of further growth" but other observers feel that it could be "a sign of peaking before decline in growth."
>
> Productivity--defined as output per hours worked--jumped 2.2 percent last year, faster than the 1.5 percent advance in 1993. It was the fifth consecutive gain since productivity fell 0.9 percent in 1989.
>
> Over time, productivity determines the nation's living standards and the competitiveness of its products overseas. Strong productivity is likely to hold off inflationary pressures.
>
> Some analysts maintain that growth in productivity will slow and then decline as companies continue to add workers and the current business cycle continues.
>
> But many disagree.
>
> "The opposing view is that employers will continue to get more out of their workers by re-engineering their manufacturing and service processes, and by outsourcing," said Stephen Roach, an economist with Morgan Stanley & Co.
>
> Growth in productivity slowed to a seasonally adjusted annual rate of 1.8 percent in the final three months of 1994, from a strong 3.2 percent in the previous quarter.

This story had actually appeared in a major metropolitan newspaper. It had attribution to two sources, which were retained for the Quote version. However, for the No-Quote version of the same story, the quotation marks and the source attributions were removed, but the content of the quoted remarks was retained. (One can imagine a third condition wherein the quotation marks are removed but the source attribution is retained. Since this study attempted to study the effects of quoted sources and not quotation marks *per se*, it was decided not to include this possible third condition in this study). The No-Quote version of the above story read as follows:

> WASHINGTON--American business productivity improved in 1994 for the fifth straight year, boosted by the largest output growth since 1984. At the same time, businesses held labor costs to the smallest gain in 30 years. This is an indication of further growth but it could be a sign of peaking before decline in growth.
>
> Productivity--defined as output per hours worked--jumped 2.2 percent last year, faster than the 1.5 percent advance in 1993. It was the fifth consecutive gain since productivity fell 0.9 percent in 1989.
>
> Over time, productivity determines the nation's living standards and the competitiveness of its products overseas. Strong productivity is likely to hold off inflationary pressures.
>
> Growth in productivity will slow and then decline as companies continue to add workers and the current business cycle continues.
>
> The opposing view is that employers will continue to get more out of their workers by re-engineering their manufacturing and service processes, and by outsourcing.
>
> Growth in productivity slowed to a seasonally adjusted annual rate of 1.8 percent in the final three months of 1994, from a strong 3.2 percent in the previous quarter.

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Similarly, two versions (Quote version and No-Quote version) of the same story were created for each of the other five types of news stories used in this experiment.

Although the independent variable in this study was varied within subjects, each subject read only one of the two versions of each story. Of the six stories read by each subject, three belonged to the Quote value and three belonged to the No-Quote value. For example, if the national, international, and local stories read by a subject all had quotes in them, the sports, business, and entertainment stories would not have any quotes. However, for every subject who got this combination of story type and manipulation, there was another subject who read the No-Quote versions of the national, international, and local stories and the Quote versions of the sports, business, and entertainment stories. Six different combinations of story type and manipulation were created such that equal numbers of subjects read the Quote and the No-Quote versions of each of the six news stories.

Dependent Measures

Content perception was the main dependent variable in this study. This was operationalized in terms of subjects' ratings of credibility, liking, quality and representativeness of the news story.

Specific measures aimed at capturing the concepts of credibility, liking, quality, and representativeness were obtained from two sources: (1) past research involving these concepts (see the section on Psychological Criteria), and (2) a pretest eliciting receivers' thoughts and feelings, in their own words, toward news stories.

All measures were in the form of adjectives so that subjects could easily rate characteristics of news stories on a Likert-type scale.

The following six measures comprised the credibility variable in this study: Accurate, Believable, Biased, Fair, Objective, and Sensationalistic.

The following five adjectival measures were used to measure subjects' liking for a news story: Boring, Lively, Enjoyable, Interesting, and Pleasing.

The following battery of five measures was used for assessing news story quality: Clear, Coherent, Comprehensive, Concise, and Well-written.

The following five measures comprised the representativeness variable in this study: Disturbing, Important, Informative, Relevant, and Timely.

In all, 21 measures were used to capture the four dependent variables in the study. These measures were in the form of adjectives placed at the left-hand side of a 10-point scale anchored between "Describes Very Poorly" and "Describes Very Well"

Procedure

An online site was established on the World Wide Web especially for this experiment .

The experiment was conducted in a journalism laboratory which had 18 Macintosh computers with access to the Internet. The Web site used for this experiment was accessed through these computers. The experimenter cleaned the desktops of the computers and issued the necessary network commands for accessing the online news site before the arrival of subjects.

When subjects arrived at the lab, all monitors displayed the first screen of "Online News." They were first seated around a center table away from the computers. They were welcomed and told briefly about the study. Specifically, they were told they would be "reading news stories online and responding to questions in the booklet" given to them.

Since the experiment was administered in groups, the experimenter directed subjects through the procedure, one segment at a time. That is, subjects were instructed to work at their own pace, but were asked to read one story only or fill out one questionnaire only, then turn to the separation page and wait for further instructions to continue. After all the subjects had completed a particular assignment, they were together guided to either the online screen or to obtrusively numbered pages in the booklet for the next task.

After subjects finished answering questions about the last (sixth) news story, they were asked to fill out a "Final Questionnaire" that had questions about the entire interaction, not individual news stories. Embedded in these questions was the manipulation check for the controlling variable, which read as follows: "The news stories you read today were selected by: ______________" After they completed this questionnaire, subjects were asked to furnish some personal information for the purpose of making payments.

Questionnaire booklets were then collected from all subjects. They were debriefed, thanked for their participation, and dismissed.

Data Analysis

A confirmatory factor analysis was conducted on the 21 dependent measures in order to confirm that the measures grouped into the four theoretically relevant factors of credibility, liking, quality, and representativeness.

The factors obtained from this analysis were labeled and checked for internal consistency. Indices were created by summing the measures that grouped together as a factor. Indices were computed for each of the six stories separately. In order to control for differences between the six story types, the mean score of all subjects for each of the six story types on a given index was subtracted from every subject's score for the corresponding story types on that index. That is, the mean score of all subjects for each of the six story types on each of the indices was first computed. Then, this mean was subtracted from each subject's score on a given index for a particular story type. For example, if the overall mean score (all subjects combined) on the credibility index was x for the national story, y for the international story, z for the local story, p for the sports story, q for the business story, and r for the entertainment story, and a subject's score on the credibility of national story was n, the credibility of international story was i, of the local story l, of the sports story s, of the business story b and of the entertainment story e, then that subject's rating of the national story on the credibility index was given by $(n-x)$. Similarly, the subject's credibility rating for the international, local, sports, business, and entertainment stories were given by $(i-y)$, $(l-z)$, $(s-p)$, $(b-q)$, and $(e-r)$ respectively.

The indices obtained by this method were then used as dependent variables, one at a time, in a series of 2x4 mixed analyses of variance, with the quote manipulation as the within-subjects factor and the selecting sources manipulation (controlling variable) as the between-subjects factor. Results of these analyses were examined for significant differences as a function of (1) the presence of quotations in news stories, and (2) interaction between the presence/absence of quotations and the type of source that selected the news stories. Since there were no hypothesized relationships between the four dependent variables, it would be difficult to interpret source effects upon combinations of these four variables. Therefore, it was decided not to run multivariate analyses of variance.

Results

Questionnaires filled out by 48 subjects were deemed usable for analysis. There were equal number of subjects (12) in each of the four selecting source conditions of the experiment.

Confirmatory Factor Analysis

A principal components analysis with varimax rotation confirmed that the 21 dependent measures grouped into the four factors of credibility, liking, quality, and representativeness, as expected. These factors together accounted for 68.7 percent of the variance.

Analyses of Variance

Differences in the dependent variables (i.e., ratings of Credibility, Liking, Quality, Representativeness, and Insightful) as a function of the six different story types were controlled for by subtracting the overall mean of a given dependent variable for a particular story type from every subject's rating on the variable for that story type. Furthermore, two means were computed for each subject: one was the average of the subject's ratings on the three news stories with quotations, and another was the average of the ratings on the three stories without quotations. Thus, each subject had two lines of data instead of six. The two lines referred to the two levels of the within-subjects factor of Original Source in this experiment. This reduced the 288-row dataset to 96 rows. The data were then cleaned for multivariate outliers before further analysis.

Credibility: When the mixed factorial 2x4 analysis of variance was run with the Credibility index as the dependent variable, a main effect for the quote manipulation was observed such that news stories with quotes were perceived by subjects as being significantly more credible than the same news stories without quotes, $F\,(1,44) = 37.52, p < .001$ (See Figure 1 for means on a ten-point scale).

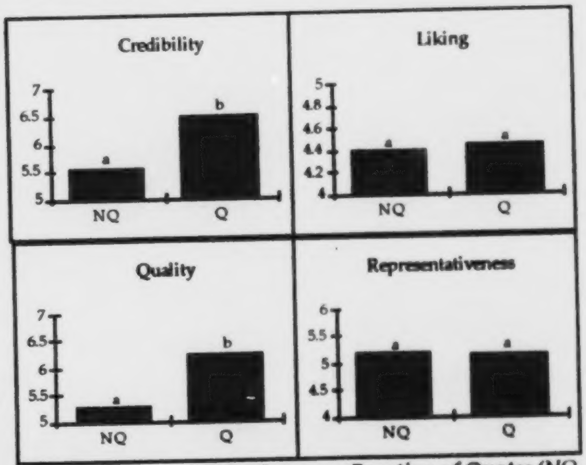

***Figure 1. News Story Ratings as a Function of Quotes** (NQ = No-Quote Condition; Q = Quote Condition. Higher scores indicate higher ratings. Comparisons between the two conditions are indicated by lowercase superscripts placed on top of the bars in the graphs. Conditions with different superscripts differ at p < .05 by multiple t or F-test).*

Liking: When the Liking index was used as the dependent variable in the mixed factorial 2x4 analysis of variance, the main effect for quotes was non-significant, $F\,(1,44) = 0.00, p = .99$. The interaction term was also non-significant. However, a significant main effect for the controlling variable was observed. This result is of no consequence to the current investigation.

Quality: With the Quality index as the dependent variable in the analysis of variance, the interaction between the two types of source manipulations was not significant. However, a significant main effect was observed for the quote manipulation, $F\,(1,44) = 20.94, p < .001$. Subjects rated news stories with quotes significantly higher in quality than the same stories without quotes (See Figure 1).

Representativeness: The interaction term was non-significant when the Representativeness index was subjected to the analysis of variance. Nor was there a difference in the Representativeness rating as a function of the independent variable. However, the main effect for the controlling variable was significant — a result similar to the one obtained with the Liking index, and, again, of no consequence to this study.

In summary, results from data analyses suggest that the presence of quotes in online news stories enhances the perceived credibility and the perceived quality of the stories. However, it does not seem to influence the perceived representativeness (or newsworthiness) of the stories. Nor does it seem to affect readers' liking for the online stories.

Discussion

The experiment yielded significant differences in the psychological perception and evaluation of online news content as a function of the presence/absence of quotations in online news stories. Moreover, the findings were clear and unambiguous, with differences showing up as either extremely statistically significant or extremely insignificant.

As mentioned in the literature review, journalism research abounds with conflicting findings about the effects of quotations. This is perhaps due to the absence of clearly explicated dependent variables. Most studies seem to use single questionnaire items instead of psychologically relevant composites as dependent measures. In contrast, the present investigation employed four highly reliable indices as dependent variables.

Controlling for the effects of selecting sources, the experiment reported in this paper found that quoted sources clearly mattered on two out of the four psychological criteria used by receivers to evaluate online news stories. Highly significant main effects for the quote manipulation were obtained on Credibility and Quality, but not on Liking and Representativeness (See Figure 1). Receivers estimated the credibility and quality of stories with quotations to be significantly higher than identical stories without quotations. However, they did not seem to think that quotations made a difference to either the representativeness of — or their liking for — news stories.

First and foremost, these results confirm that journalists' preoccupation with getting quotes for news stories is a psychologically valid concern. More importantly, they dissect the psychological effects of quotes and pinpoint the areas in which quoted sources have an effect and areas in which they do not seem to have any effect. For example, receivers' perceptions of newsworthiness of a news story are not significantly affected by quotations. Neither is their liking for stories affected by the presence or absence of original sources. Quotes play a significant role only in receivers' perceptions of credibility and quality of news stories.

This suggests that the "print-orientation" noticed by Culbertson and Somerick (1977) is applicable not only to traditional print media but also to online media. It appears that online news users are just as likely as newspaper readers to use the presence or absence of quoted sources to make judgments about the credibility and quality of online news stories. However, quoted sources do not seem to enhance the perceived newsworthiness of an online news story.

By demonstrating the psychological importance of quotes in online news, this study implies that the current proliferation of online news sources is unlikely to lead to the "I-read-somewhere-that" phenomenon. Tidbits of news consumed via the computer screen are not all processed in a cyber-haze but attended to as deliberately as news stories printed in a newspaper. Online users *do* notice quotes in news stories transmitted digitally. While they may not factor them into their decisions about the importance or liking of a piece of news, they *do* consider quotes while evaluating the credibility and quality of online news.

These results should be interpreted by keeping in mind an important methodological limitation of the experimental stimuli. In an effort to keep the information content constant between the two conditions, the quotation marks and the accompanying attributions to original sources were simply removed from the Quote version of every news story to create the corresponding No-Quote version. That is, the language of the quoted remarks was not changed for the No-Quote version save for minor transitionary phrases. This meant that some sentences which would be appropriate in a news story only when enclosed in quotation marks appeared in the No-Quote version without any attribution. This might have made the news story read like an opinion article because the sentences with quotation marks removed would presumably be attributed to licentious writing on the part of the journalist. Subjects in the experiment might have been reacting to this perceived editorializing on the part of the writer when they made their evaluations, and not really responding to the presence or absence of quotation marks in the stories.

Future research should attempt to create news stories, whose Quote and No-Quote versions do not differ in any way other than the presence and absence of quotation marks. This may be difficult because news stories without strongly opinionated quotations are not interesting enough to read. Another line of study could investigate if the presence of quotations in non-news stories, like editorials and opinion columns, influences receivers' ratings of credibility and quality. A third solution would be to employ stimulus sampling by comparing an exhaustive sample of stories with quotes with an equally large but different sample of stories without quotes.

Since most of the quoted remarks in the present study were attributed to people, future studies should use a diversity of original sources that include institutions and organizations, to determine if the ontological differences between people as sources and institutions as sources are psychologically meaningful.

Yet another line of investigation can concentrate on the characteristics of "online-orientation" in order to discover if preference for — or dependence upon — online media (as opposed to traditional media) dictate aspects of psychological processing of news.

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CHANGES AND CONSISTENCIES:

Newspaper Journalists Contemplate an Online Future

Presented to:

Communication Technology and Policy Division
Association for Education in Journalism and Mass Communication
Annual convention: Anaheim, CA, August 1996

Jane B. Singer
Assistant Professor

C-237 Clark Building
Journalism and Technical Communication
Colorado State University
Fort Collins, CO 80523

(970) 491-7330
jsinger@vines.colostate.edu

ABSTRACT

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As an increasing number of newspapers venture online, journalists face potential new ways of understanding their job and their role in society. This paper reports on a study that explored how metro reporters and editors see technological changes affecting them. The results indicate that few have much experience with interactive media, and even fewer perceive new delivery mechanisms as having a fundamental effect on the things important to them: gathering information, interpreting it and shaping it into a meaningful story.

CHANGES AND CONSISTENCIES:
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As newspapers by the hundreds spring onto the Internet and new World Wide Web sites adorned with mastheads blossom almost daily, publishers have become proficient at telling one another why online is an attractive place to be. The reasons are couched in terms of both offense -- such as the opportunity for "increased connectivity with readers," and demographically attractive readers at that -- and defense, with competition coming not just from other publishers or even other media organizations but from everyone from Bill Gates to Ma Bell and her progeny, as well (Opportunities in Anarchy, 1995).

The message clearly is having an effect in the executive suite. A recent count indicates more than 450 commercial U.S. newspapers now have online services either operational or under development, and one industry expert estimates that by early 1997, between 1,500 and 2,000 newspapers will be available electronically (Outing, 1996). What is far less certain, however, is whether the word is getting through to the people who actually create the content that goes into those newspapers -- and if it is getting through, how it is being received.

The study described here was conducted in an effort to understand the attitudes of metro reporters and editors at daily newspapers toward changes in the medium through which they provide information to readers. It was concerned with the ways in which these journalists are (or are not) integrating those changes not only in their daily routines but also in their perceptions of their own roles, skills and values.

Two related research questions guided this exploratory and descriptive study: "What do I do as a newspaper reporter or editor? And how is that role -- including the skills and values I bring to my job and career -- affected by imminent, or ongoing, technological changes in the way the stories I write or edit reach my audience?" A Q study was conducted as part of the effort to probe the answers to those questions; the results are reported here.

DEFINITION OF Q METHODOLOGY AND DESCRIPTION OF THE STUDY

Psychologist and physicist William Stephenson, the "father" of Q methodology, defined it as the objective study of subjectivity, or a person's point of view on any matter of personal or social importance (McKeown and Thomas, 1988). Although Q method searches for patterns, it is a wholly self-referential process: No meaning exists until the respondent creates it in by sorting Q statements or other artifacts.

Q method places prime importance on the need to preserve individual viewpoints -- in fact, Stephenson (1988) urged the selection of people known to have particular interests -- and the method usually employs a small number of respondents. The 27 journalists who participated in this study are not an atypical number. Q method is concerned with typologies, in that it reveals qualitative segments that exist in a population. But it is not designed to determine how many people of a particular type exist in the world at large (Brown, 1980). Its goal is to give structure and form to subjective opinions so they can be observed and studied.

Q is a method of impression rather than expression: Significance of the test stimuli to the respondent is the key. A factor analysis of the completed sorts yields categories of operant subjectivity that were inherent in the original concourse (Brown, 1986), or all conversational possibilities about a topic seen from the standpoint of someone involved in the situation; a concourse exists for every concept, declaration, wish and object in nature (Stephenson, 1978). The sample in a Q study consists of statements (or other items to be sorted), not people.

Statements in a concourse, like particles in a liquid state, have no predetermined order of importance. Meaning is projected onto them by the people who sort them (Brown, 1986); the researcher's job is to identify contextual patterns. Factor analysis in Q method is used mainly as a probing device, allowing a researcher to pursue ideas and insights and to ask of the data whether they will support an interpretation. In Q, it is people -- rather than traits, test scores or whatever -- who are factored. Analysis lends statistical clarity to the way individuals have grouped themselves through their sorts (McKeown and Thomas, 1988).

The 27 reporters and editors who participated in this Q study, conducted during the summer and early fall of 1995, worked at newspapers that were at various stages of development of online media. Nineteen worked at three papers that also served as case studies in exploring the research questions described above; they completed Q sorts after being interviewed by the author. One of the papers, located in the South, had an online product available through the Prodigy service. Another, in the Midwest, had provided an audiotex (telephone) service for four years and was in the development phase of a computer-based product. The third, a Western paper, was still weighing pros and cons of an online service at the time of the study. The other eight journalists, who were contacted by phone and sent Q sorts in the mail, worked at papers across the country that already were providing an online version of their content.

The Q instrument consisted of 52 statements, created through a structured procedure and based primarily on interviews conducted during preliminary information-gathering stages. The appendix contains a copy of the instrument, including the instructions and recording form. A forced distribution method was used; though Q method does not require it, forced distribution encourages people to consider the statements systematically. The format helps respondents "make distinctions that they might not otherwise volunteer but of which they are generally capable" (Brown, 1980, 203). Combined with conditions of instruction that ask respondents to start with the statements about which they have the most extreme attitudes (+ 5 or - 5) and work toward neutrality (0), forced distribution allows researchers to learn which statements provoke the most passion -- information that helps clarify clusters of opinion.

The results of the 27 Q sorts were run through QUANL, a program that factor analyzes them and generates standard z-scores indicating the strength of agreement or disagreement with a particular statement. The factor analysis process provides information not just about individuals but about types of attitudes toward the topic that exist in the world at large. Q factors are, in a sense, generalizations, composites of people significantly loaded on them (Brown, 1986). The composite representing a particular factor reveals how people of that type think; Q factors are groups of "like" people, linked by common beliefs, attitudes, opinions.

When the results were subjected to varimax, or orthogonal rotation -- intended to maximize purity of saturation, meaning people are clearly loaded on one and only one factor -- three factors were produced, all with eigenvalues above the desired significance level of 1.00. As the analysis begins to clarify the attitudes of each factor, the researcher comes to think of each factor less as a composite, and more as a single, real human being. It thus becomes not only plausible but natural to describe what this person is like -- and to give him or her a name:

* The Benevolent Revolutionary is the most enthusiastic about new technology. The Revolutionary evaluates technological change largely in terms of the opportunities it provides, particularly the opportunities for journalists to do their existing jobs better.

* The Nervous Traditionalist disagrees. The Traditionalist is much more likely to fear new technology rather than welcome it, perceiving far more drawbacks than benefits.

* The Serene Separatist has nothing major against new technology, primarily because the changes aren't seen as having much to do with him or her at all. The Separatist does not predict significant effects on the journalistic role, product or process in the foreseeable future.

This paper offers a closer look at these composite individuals and their diverse attitudes about changing media technology. For the sake of brevity, the pronoun "he" will be used to refer to each factor; in fact, all three included both men and women. The quotes provided with various statements come from respondents' comments about their polar items, the statements with which they most strongly agreed and disagreed.

THE BENEVOLENT REVOLUTIONARY

The 10 reporters and editors on this factor are the strongest supporters of new media technology, which they see as offering opportunities for both journalist and reader to do things that are difficult or impossible with the printed newspaper. The Benevolent Revolutionary, more clearly than the other groups, sees the print and online products as separate but complementary. The two co-exist, for at least a while -- and journalists are vital to both.

This sense of complementarity manifests itself in a variety of ways. The Revolutionary is far more likely than the other factors to agree with Statement 52 ("The online product is not competition for the newspaper, nor a substitute for it -- the two media do different things. You layer media, you don't replace them"; + 4, z=1.69). "Not everyone has a computer or wants one," explained one 25-year-old reporter. "We can't give up on newspapers." But at the same time, journalists SHOULD understand and take advantage of the new media's unique capabilities. The Revolutionary is alone in strongly disagreeing with the idea, contained in Statement 45, that people want the same things online as off ("The type of information people will want or use online is the same as the type of information they want or use through traditional media such as the newspaper"; - 4, z=-1.23). And he firmly believes that online media simply can do some things better than newspapers, indicated in his support of Statement 5 ("More recent news, in almost unlimited quantity, with access to previous stories on the topic, as well -- those are things online media can provide that a newspaper can never match"; + 3, z=1.00). "No limits on access to current and previous news," said a 44-year-old editor. "Newspapers have limited space, cannot match speed or quantity of online services," agreed his colleague at another paper.

He is more likely, as well, to agree with Statement 11 ("It doesn't make sense to use the new medium to do the same things the old medium can do. We should be focusing on its unique advantages, things such as sound capabilities or immediacy of information"; + 2, z=0.88); the three people who loaded mostly purely on the factor all gave it a + 5 ranking. "There are other ways to satisfy our curiosity than mere words," a 51-year-old reporter who loaded most highly on this factor wrote. "Humans have an endless appetite for information and intellectual stimulation," agreed the second-most-highly loaded respondent, a 30-year-old reporter at the same paper. "The more we offer, the more they will consume."

The key word there may be "we." The Revolutionary is adamant in his belief that journalists occupy a central place in the new media world. This group agrees most strongly with two statements that indicate that first, what matters most is good journalism and second, it's only a matter of time before today's journalists start to use new technology in innovative ways. And the Revolutionary disagrees most strongly with the suggestions of obsolescence for either his profession or his key professional skill: the ability to tell a story well.

The Revolutionary gives his strongest nod of agreement to Statement 30 ("You can come up with all kinds of technological advances, but the journalism that people care about is still going to depend on good writing, good interviewing, thoughtfulness -- things that predate computers by many centuries"; + 5, z=2.08). Actually, all three factors agree most strongly with that statement -- though apparently for different reasons. The Revolutionary believes his talents will remain valuable no matter what the mode of delivery and, in fact, can make the new mode of delivery better. "Journalism is a skill, one that will always be in demand," wrote a 36-year-old reporter.

Some harbor worries about the future; in the words of a 44-year-old reporter: "Writing ... thoughtfulness. These things will seem to diminish with new media, subtly." But the antidote is neither fear nor denial but greater familiarity, breeding not contempt but confidence. The Revolutionary strongly agrees with Statement 44 ("Once journalists start using new technology more, they'll be less put off by it. The light bulbs will go on and we'll see all sorts of interesting ideas for ways to use online media start bubbling up"; + 5, z=2.03). "People are afraid of the unknown," wrote a 25-year-old reporter. "More we use it, more comfortable with it and new ideas," agreed a 44-year-old editor.

The flip side of that eagerness for journalists to get on board is frustration with the snail's pace at which the bandwagon seems to him to be crawling through the newsroom and the industry. The Revolutionary is alone in disagreeing fairly strongly with Statement 34 ("For the vast majority out there in the real world, new media technology is going to be something they'll read about, but it's not going to affect their lives to any great degree in the near future"; - 3, z=-1.08). Impatience also may be reflected in his relatively strong disagreement with Statement 15 ("Producing content for the online product is a high priority in my newsroom;" - 4, z=-1.48); "it's almost never mentioned," complained the reporter who loaded most highly on this factor.

Not unexpectedly, the Revolutionary supports his boss' exploration of online media, agreeing with Statement 24 ("It's good that my newspaper is looking at itself as an information company, not an ink-on-paper company. You have to be prepared for change to survive"; + 3, z=1.50). He also is the least likely to say he has no time for new media, disagreeing with Statement 8 ("I have a full-time job as it is. I don't have time to get involved with alternative delivery methods or new media technologies"; - 3, z=-1.11). These things are important to him. They are changes with which the Revolutionary wants to be involved.

He wants to be involved because he strongly believes his skills are needed in an interactive world. The three factors are unanimous in their disagreement with Statement 27 ("Interactive media will make journalists obsolete"), and the Revolutionary is passionate about it (- 5, z=-2.28). But he is alone in an almost equally firm belief that good writing will be valued online, disagreeing vehemently with Statement 35 ("I fear that good writing will become irrelevant in the media environment of the future"; - 5, z=-1.77). "Clear writing will be important, since speed and accuracy are especially important (online)," wrote a 44-year-old reporter. "Interactive media will need journalists to compile, assimilate and tell stories," wrote a 42-year-old editor who disagreed with Statement 27. "You'll always need reporters to interpret and gather the news," a younger reporter agreed. "Folks want the bottom line."

In other words, while people may want, need and use new media for things the newspaper can't provide (as indicated in statements 5, 11, 45 and 52), a news story is a news story is a news story. It's nothing new and nothing to fear, as Revolutionaries pointed out in their agreement with Statement 21 ("A story is a story, regardless of whether it's on a tablet or a fluorescent screen. The technology is just a different way of getting people the information they want -- it's nothing to be afraid of"; + 4, z=1.87). New modes of delivery supplement what journalists do now, but they certainly do not supplant it.

One reason the Benevolent Revolutionaries do not feel threatened by new media technologies is that they know a lot about them in comparison with the people on the other factors. Five Revolutionaries reported using Internet or the World Wide Web; America Online and Prodigy each counted two Revolutionary subscribers; CompuServe and EWorld both had one. The Revolutionary is not overwhelmed by technological change. He is alone in disagreeing with Statements 29 ("I have a strong sense of being able to absorb less and less of the increasing amount of information available"; - 1, z=-0.44) and 25 ("I feel guilty that I don't know more about computers and new media technology"; - 1, z=-0.33).

And while other factors see significant down sides for society related to new media technologies, the Revolutionary sees the change as beneficial. He is alone in his agreement with Statement 14 ("New media can help create a better sense of community"; + 1, z=0.31), and is similarly unique in his disagreement with Statement 19 ("Computer-delivered information services are only for the elite, the well-to-do. They don't serve readers from a good cross-section of the community"; - 1, z=-0.35). "It will create more of a global community, but may tear down the local community," said one young reporter. The Revolutionary also is the least concerned about knowledge-gap effects, disagreeing only mildly with Statement 4 ("The new media will narrow the information gap between the rich and the poor"; - 1, z=- 0.53).

This support of new media among the Benevolent Revolutionaries is not an age thing. Although it is true that the two youngest respondents are on this factor, five Revolutionaries are in their 40s and 50s; the factor's members range in age from 25 to 51, with a median age of 40. In fact, the person who loaded mostly highly was 51, the second-oldest of all the respondents. The factor consists of five male and two female reporters, along with three male editors. Half of the Revolutionaries have master's degrees, and seven have at least one college degree in journalism. The "greenest" had been a reporter for only about two years, but three had more than 10 years of experience; three of the older respondents did not indicate experience on the recording form.

The Revolutionary, then, is "pro" new media -- and apt to believe the changes will directly affect him as a journalist. The people on the second factor also expect to be affected ... but not for the better.

THE NERVOUS TRADITIONALIST

Picture a reporter or editor from a favorite journalism movie or television show -- "Lou Grant"? "All the President's Men"? Even "The Front Page"? -- and the people on this factor come to mind. These are the hard-working, hard-nosed guys (mostly), torn between idealism about their profession and cynicism about their jobs, happiest when they have a pencil behind their ear and a reporter's notebook in their hand. They are the traditionalists -- and they're nervous about the future.

If the Benevolent Revolutionary who suggested that people have a fear of the unknown was thinking about his colleagues among the Nervous Traditionalists, he was right on the mark. Of the seven reporters and one editor who loaded significantly on this factor, not a single one reported any usage of the Internet or any other online service. Cyberspace is terra incognita to this group, and the prospect of upheaval caused by the shifting terrain scares them. The Traditionalist is not so much opposed to technology per se as concerned that it will negatively affect "real" journalism -- the kind he does.

The fear manifests itself in various ways. He is far from sure he will never become passe, disagreeing less strongly (- 3, z=-1.34) than the other factors with Statement 27's prediction of obsolescence for journalists. He also is less than thrilled with the whole idea of change, taking issue with Statement 17 ("To journalists -- people in the information delivery business -- the changes being brought about by computers are intoxicating"; - 2, z=-0.88). "Hardly intoxicating," wrote a 53-year-old editor. "More a pain in the ass with the constant rush of forcing on journalists more than they possibly need or can use."

The Traditionalist also afraid of his own ignorance. He is the only one to confess to not keeping up with technological change, disagreeing with Statement 9 ("I am knowledgeable about what's going on in the newspaper industry today relating to new media technology"; - 3, z=-1.25). And he regrets his lack of knowledge, strongly acknowledging (+ 4, z=1.35) the guilt described in Statement 25. "I know it could be helpful," admitted a 27-year-old reporter. "But I haven't gotten around to it." Not only does he think he should know more, but he thinks his career would benefit if he did. The Traditionalist agrees more strongly than the others with Statement 43 ("My prospects of getting a better job would improve if I knew more about new media technology"; + 3, z=1.06).

But one thing the Traditionalist DOES know is journalism, and he fervently hopes the journalism he cares about will survive. Like the others, he agrees most strongly (+ 5, z=1.85) with Statement 30's notion that despite technological change, the stories that matter to people will continue to depend on traditional journalistic skills. "It wasn't the printing press that changed the world, it was good journalism," the only editor on this factor wrote. "The same goes for high tech." A 33-year-old reporter agreed that "fairness, accuracy and balance remain coins of our realm." But the Revolutionary sees the skills enumerated in Statement 30 as important now and in the future; computer-mediated information is part of an ongoing journalistic continuum. The Traditionalist is afraid those skills will cease to be important down the road. He sees tradition being undermined by technological change.

He differs significantly (z-score difference with an absolute value greater than 2.0) from the others over Statement 35; only the Traditionalist fears "good writing will become irrelevant in the media environment of the future" (+ 3, z=1.08). "Writing is almost irrelevant now. 'Packages' are important," grumbled a 47-year-old reporter. "As media become more dependent on high-tech inventions, speed, I fear, will outweigh quality," wrote a 30-year-old reporter, who waged a small rebellion against space constraints by using the back of his recording form to offer an expanded explanation of his sort on each polar item. "Cutting corners, trimming story lengths and narrowing the editing processes will become the solution to achieve quick writing instead of good writing. Stories will still be accurate and balanced. They just won't be anything with a well-defined beginning, middle and end."

That idea of the "finiteness" of a printed story, or of the paper itself, recurs in the Traditionalist's strong agreement with Statement 16 ("A newspaper is tangible, finite, discrete. A drawback of online media is that they are none of those things. For instance, there's something reassuring about how a paper is in discrete form; the implicit idea is 'This is all I need to know today'"; + 4, z=1.57). "You pick it up, you put it down, you don't need a dark room with electricity," wrote the same reporter who bemoaned the importance of "packages."

A finite product is one that has been shaped by a gatekeeper: A journalist has chosen what to put in and what to leave out. To the Traditionalist, that's a crucial role threatened by new forms of delivery. He is alone in agreeing with Statement 10 ("Journalists are like chefs, preparing the most nutritious and tasty news meal of the day for our readers. We surrender that role if, instead, we offer a big buffet, a huge smorgasbord, and turn people loose to eat what they want"; + 2, z=0.60). "A big part of our role is telling people what they need to know is news," wrote the reporter who loaded most highly on this factor. "People want that." "Unlimited information can clog a reader's mind, just like too much ice cream can give you a bellyache," agreed the second most highly loaded Traditionalist, a 31-year-old reporter.

But although he dislikes the idea, the Traditionalist is convinced his gatekeeping role WILL change. He is the only one to disagree with Statement 36 ("Our role as gatekeepers will not change because information is going out over a modem rather than in hard copy"; - 4, z=-1.47). "Over the modem, our info flows into a sea of competing info," the reporter who loaded most highly on this factor wrote. "A paper is distinct, authoritative." A younger reporter agreed. "Instead of gatekeepers, we will become doormen and doorwomen, bowing down to every whim of the reader and worrying not to offend them with negative, realistic news events," he predicted. "Because if we do offend, readers will switch to another on-line system or network."

Their gatekeeping role isn't the only thing threatened by online media. Their stories are apt to change, too -- and the stories are, after all, what get these seasoned reporters out of bed in the morning. Nervous Traditionalists depart from their colleagues again -- with a z-score difference with an absolute value greater than 3.0 in comparison with either other factor -- in disagreeing (- 3, z=-1.00) with Statement 21's proposition that a story is a story, regardless of how it's delivered. "A story feels more antiseptic to me on a computer screen, with less texture and feel," wrote one reporter. "A newspaper story is real. An online story is a packaged product," wrote another.

They are more likely, as well, to see problems with stories that do go out online. To the Traditionalist, lack of accountability for online info is a major problem; he gives his heartiest agreement to Statement 46 ("The anonymity afforded by online media is a problem. You don't really know who's providing information you see online, so you don't know how credible or even legitimate it is"; + 5, z=1.84). "Newspapers have reputations, voices. People can access credibility with some precision," wrote the top-loaded Traditionalist. "That represents my biggest concern about on-line media," wrote a 28-year-old reporter. "It's a voice in the dark from an e-mail address." Accuracy is another potential trouble spot. The Traditionalists is, yes, alone in his agreement with Statement 13 ("Because of the emphasis on speed, the news online is less filtered and there's less care taken with getting it right"; + 3, z=1.06). "The same phenomenon occurs on television," a 33-year-old reporter wrote. "Analysis is a filter that requires time."

Not surprisingly, the Traditionalist is less than delighted that his employer is pursuing online delivery of information. Though he doesn't flat-out disapprove, he is not as enthusiastic as the other factors about Statement 24 ("It's good that my newspaper is looking at itself as an information company, not an ink-on-paper company. You have to be prepared for change to survive"; + 2, z=0.81). He also is cynical about being dragged into the electronic age in order (he suspects) for his boss to make still more money. Traditionalists are the only group to agree (mildly) with Statement 42 ("A lot of newspaper companies may be interested in online media. But most of the journalists who work for them are not"; + 1, z=0.35). They also are the only ones to disagree, a bit more strongly, with Statement 3 ("The people I'm closest to in the newsroom take online media seriously"; - 2, z=-0.88).

And how about the readers? Well, they'll be ill-served by new media, too. In fact, the Traditionalists couch their fear of the future largely in terms of effects on the public. Their strongest disagreement goes to Statements 4 ("The new media will narrow the information gap between the rich and the poor"; - 5, z=-2.50) and 14 ("New media technology can help create a better sense of community"; - 5, z=-1.85). "New media will widen the info gap greatly. They raise financial, educational barriers," the most highly loaded reporter wrote of Statement 4. "The new media will define the haves and the have-nots, essentially widening the gap between the rich and poor," wrote another reporter. "In basic terms, those with the sophistication and a personal computer will have the access. Those who don't, won't." The result is fewer voices echoing through cyberspace. The Traditionalist is unique in agreeing with Statement 31 ("I am concerned about the number of voices that will be heard with the new electronic media. I'm worried that the technology may mean fewer voices are heard, and that the same people will be controlling all the news"; + 1, z=0.48).

Is there any good news here? Frankly, not much. Perhaps the only hope, when all is said and done, is that journalists ARE still needed to make sense of the chaos in cyberspace. Like his colleagues, the Traditionalist does support Statement 22 ("We need journalists to make sense of the information available online and to put it in perspective"; + 4, z=1.39). The job may change, the stories may change, the readers may change -- but the need remains. Whether it is met is another story.

The Traditionalist's view of changing technology is not an age thing, either. Four people on this factor are under 30; only three are over 40. Traditionalists included six male and two female reporters, plus one male editor. Four of the Traditionalists have master's degrees, four have bachelor's degrees and one reporter was a high school graduate. Four college graduates have at least one degree in journalism. Only one reporter has fewer than five years experience; three of the Traditionalists reported more than 20 years as journalism professionals.

THE SERENE SEPARATIST

The Traditionalist fears new media will affect him for the worse; the Revolutionary believes it will affect him for the better. Other than some social concerns, the Serene Separatist doesn't have anything major against new technology; in fact, these three reporters and five editors think it's kind of neat in a lot of ways. It's just that they don't think those ways have much to do with them, at least in the near term.

The Separatist sees online media as interesting but basically irrelevant to newspaper journalists and journalism today. Like the rest, he disagrees (- 5, z=-2.37) with Statement 27's suggestion that interactice media will make journalists obsolete. But he is alone in his similarly vehement opposition to Statement 12 ("Newspapers are the dinosaurs of the information age. They are headed for extinction"; - 5, z=-2.12). "One of life's great joys -- a cup of coffee and a newspaper," wrote a 29-year-old editor. "I think people will always want portable information," explained an older editor. In other words, newspapers will be around for a long time. If that means they will have to move online, so be it; the Separatist doesn't see it making much difference to him one way or the other. The Revolutionary sees his skills as necessary online because he can contribute to a product that is unlike the print one; hence he agrees that journalists should focus on unique advantages offered by online media. But only the Separatist disputes that notion, reflected in his disagreement (- 2, z=-0.76) with Statement 11. In fact, he diverges most sharply from the Revolutionary over this idea.

Technological determinists these people are not; they see little about online media that will change what they do. Their gatekeeping function, for instance, remains the same; the Separatists agree more strongly (+ 4, z=1.72) than the other factors with Statement 36's proposition that new media do not alter the journalist's gatekeeping role. Nor will the stories change. The Revolutionary and Separatist were in agreement in their strong support of Statement 21 ("A story is a story, regardless of whether it's on a tablet or a fluorescent screen ..."; + 5, z=1.89) and their disagreement with Statement 37 ("I'm afraid that I will have to do particular stories, or do stories in a particular way, because of the need for them to be compatible with new media technologies"; - 3, z=-1.01). "It's the message -- not the medium!" exclaimed a 43-year-old reporter who loaded most highly on this factor. "News, analysis, features opinion -- these are based on words and images -- no matter what medium," wrote another 43-year-old reporter.

Adding to the relative serenity in the face of technological change is the fact that the Separatist just doesn't see what all the fuss is about. It's not like this is going to be any big deal any time soon; the Separatist is significantly more in agreement (z-score difference less

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than - 2.0) than the Revolutionary with Statement 34 ("For the vast majority out there in the real world, new media technology is going to be something they'll read about, but it's not going to affect their lives to any great degree in the near future"; + 3, z=1.30).

Technology does not change the journalist's role. It does not change the journalist's product. Nor does it change the journalistic process ... for now. The Separatist disagrees strongly with Statement 38 ("New technologies make us lazy. They discourage us from doing the basic legwork, finding our sources, getting out and talking to people more"; 4, z=-1.73). "Information still comes from people, not machines," wrote a 36-year-old reporter. "New technology helps us. But it does not substitute for basic reporting," a 42-year-old editor agreed. More strongly than the other factors, Separatists contest the idea that online media negatively affect journalists' relationship with sources or readers, disagreeing with Statement 50 ("Online media alienate us, distance us from real people"; - 2, z=-0.61). They are in accord with the others, however, in their hearty support (+ 5, z=1.95) of Statement 30's premise that meaningful journalist still depends on good writing, good interviewing and thoughtfulness. "A quality product -- based on great reporting and writing -- is what people value ... and buy," one Separatist reporter wrote. "I think this is the key to it all -- retaining quality, accuracy," agreed an editor.

But "for now" is not forever -- fortunately. The Separatist does think that eventually, when the time is right, journalists will start to get involved in online media. He isn't quite as excited by the prospect as the Revolutionary, yet he agrees strongly (+ 4, z=1.52) with Statement 44's optimistic suggestion that "the light bulbs will go on" once journalists start using new technology more.

The Separatist and the Revolutionary disagree over the effects of new media on their audience. The Separatist sees social problems that are discounted in the Revolutionary's fervor. He is more troubled by knowledge-gap issues, disagreeing almost as strongly (- 4, z=-1.78) as the Traditionalist with Statement 4, that new media will narrow a financially based gap. "I worry this is a source only for the affluent," wrote a 44-year-old editor. "The cost of computers and modems will have to drop for the gap to narrow," agreed an editor at another paper. Similarly, the Separatist is nearly as convinced as the Traditionalist that new media are inherently elitist; unlike the Revolutionary, he agrees with Statement 19 ("Computer-delivered information services are only for the elite, the well-to-do. They don't serve readers from a good cross-section of the community"; + 2, z=0.55).

Perhaps at least in part because of these social concerns, he is not ready to relinquish control over the product just yet. Separatists are the least likely of any of the factors to see user control as a wonderful thing; while both the Revolutionaries and the Traditionalists agree rather strongly with Statement 20 ("User control is one of the most attractive features of interactive media, permitting people to retrieve what they want when they want it"), Separatists manage to contain their enthusiasm (+ 1, z=0.20). In sharp contrast with the Revolutionaries' strong disagreement, they also mildly agree with Statement 6 ("It's scary to give people the power to choose what stories to see and not to see because if they have to think ahead of time about which specific stories they want to read, they'll miss other stories they might care about"; + 1, z=0.21). Nor do they see access to huge quantities of information as beneficial for readers; unlike the Revolutionary, who strongly agrees, the Separatist is noncommittal about

Statement 1 ("Access to vast amounts of information, provided by new media, creates a sense of empowerment for our readers"; 0, z=0.17).

Finally, the Separatist is more willing than the Revolutionary to recognize that online media may have some problems that journalists have learned how to overcome in print. He agrees only slightly less strongly than the Traditionalist with Statement 46 ("The anonymity afforded by online media is a problem. ..."; + 4, z=1.48). "There are two sides to every story," one editor wrote. "The spin masters can have a field day with the niave (sic)." An editor at another paper agreed. "You need to check your sources," she wrote. "Just because they're online doesn't make them legitimate." Still, the Separatist is prepared to acknowledge some benefits and to reserve final judgment (besides, he believes he has plenty of time to reach one). Unlike the Traditionalist, who strongly agrees, he is neutral about Statement 13 ("Because of the emphasis on speed, the news online is less filtered and there's less care taken with getting it right"; 0, z=0.04); while the Traditionalist strongly disagrees, the Separatist also is neutral about Statement 7 ("The benefits to our readers of the online product's timeliness -- the fact that they can get updated information immediately -- outweighs any concerns about possible competition with the printed paper"; 0, z=0.13).

Overall, the Separatists are more balanced and reasoned in their approach to online media than either of the other two factors. Maybe it's the Midwest attitude of "we'll deal with it when it happens"; six of the eight Separatists work at papers in either Missouri or Nebraska. Maybe it's a sign of maturity: Five Separatists are in their 40s, and two others are in their mid to late 30s. This group also is the most seasoned; seven Separatists have more than 10 years of experience, and four have more than 20. Two Separatists have master's degrees; six hold bachelor's. Six of the college degrees are in journalism or communications. Three of the Separatists use the Internet or the World Wide Web; CompuServe and Prodigy had one Separatist subscriber each.

These are people who have been through other newsroom changes during their careers. They have seen first-hand that the journalists, the newspaper and journalism itself have all survived. Perhaps they are unrealistic about the future of newspapers -- but perhaps not. To borrow a phrase from another one-time resident of the Show-Me State, rumors of the death of newspapers have been greatly exaggerated before.

CONSENSUS ITEMS

Seventeen statements appeared as consensus items in this study. All three factors agreed most strongly of all (+ 5) with Statement 30, about the importance of writing, interviewing and thoughtfulness; the average z-score for this statement was 1.96. The ongoing need for strong, basic journalistic skills also was reflected in other consensus items, including agreement with Statement 22 ("We need journalists to make sense of the information available online and to put it in perspective"; + 3, + 4, + 3, average z=1.39) and disagreement with Statement 32 ("People without strong technical skills will never be hired to work on online media, regardless of how good they are at reporting or writing or editing"; - 3, - 2, - 2, average z=-0.77). "Without translation and filtering, information is worthless," said one Revolutionary reporter. "There will be more people with reporter skills, not fewer."

There also was some agreement that it's only a matter of time before both journalists and readers become comfortable with new media. Everyone agreed with Statements 44 ("Once journalists start using new technology more, they'll be less put off by it ..."; + 5, + 3, + 4, average z=1.56) and 41 ("Five years ago, only techno-nerds knew about the Internet and other online media. Now they've just taken off like a fire. It must be like the first days of electricity or air flight -- soon we'll be taking them for granted"; + 3, + 1, + 2, average z=0.74).

SUMMARY AND CONCLUSION

This study found that the answer to the first research question -- "What do I do as a newspaper reporter or editor?" -- was similar to that found by previous researchers such as Weaver and Wilhoit (1991, 1992). The journalists studied here saw themselves as professionals whose job was not just to gather information and shape it into a story but also to make sense of it for their readers. That emphasis on the journalist's interpretive role -- and on the need to be a credible and fair source of interpretation in a world in which credibility is becoming harder to judge and fairness harder to come by -- is particularly strong. It comes through in the universal agreement with statements that highlight the importance of "good journalism" and thoughtful journalists.

The idea that "sense-making" is becoming increasingly vital is in line with the suggestion that a paradigm shift is occurring, in which the journalist's core function is changing from mere transportation of information to its processing -- a change "as profound as the shift in the food economy from hunting and gathering to agriculture" (Jurgensen and Meyer, 1992, 268). It echoes advice offered at least as far back as 1983 that to be relevant in an "electronic age," journalists must concentrate on "filling the role only journalism can -- that of helping the American people to know what is going on in the world around them and to understand it" (Perry, 1983, 29). As the explosion of information continues, another writer suggested a decade later, "there will be even more need for highly skilled journalists to root through it, filter out what's important and help put it in perspective" (Underwood, 1992, 27).

The response to the second research question -- which asked how journalists see their role, including their skills and values, being affected by technological change -- was, for many, "not much." Certainly, there was wide variation in that theme. The perception that the current impact is minimal does not mean journalists are not either worried or excited (or both) about possible impacts down the road, ranging from the hope of being able to access more information to the fear that online stories will somehow be less trustworthy than those in print. But regardless of whether they tend to see technology as an enhancement or a threat, they see it as modifying their existing job, not fundamentally changing it. Interactive media, they say, are almost entirely about delivering information in different ways.

It is perhaps easy to bemoan what may seem like a rather parochial view. And it is true that most of these journalists have had very little direct experience with online media. But it also may be that they are right in their conviction that what matters IS good journalism. New skills can always be learned and applied in new ways. Fundamental ideals and values are both more important and more enduring. Perhaps there is more wisdom than naivete in approaching new delivery mechanisms as merely a different vehicle for what journalists do and remaining focused on their crucial role as credible sense-makers.

But if they are partially right, they are also partially wrong in shrugging off interactive media as nothing to be concerned about or involved with. If sense-making and interpretation are increasingly vital, it also is vital that those functions be carried out in an environment of exponentially expanding information. That environment is not the newspaper, with its steadily rising production costs and steadily shrinking readership. Nor is it the competitive environment of broadcast or even cable television in which they are accustomed to operating. The Internet, and whatever its successors turn out to be, takes the notion of competition for readers' time and attention (not to mention advertisers' dollars) far beyond broadcast or even cable. Interactive media represent a shift in the whole concept of what is information, who provides it, and what can be done with it.

The environment in which the journalist's crucial functions need to be carried out is online. And the need for journalistic involvement in online media increases daily. Perhaps Bill Kovach, former editor of the Atlanta Journal-Constitution and now the Nieman Foundation curator, expressed it best: "Unless those of us who care about ... public interest journalism become knowledgeable about the technology, conversant with its applications and active in shaping the decisions that will be made about its uses, other forces with more powerful interest will make those decisions" (Kovach, 1994, 4). The key word may be "active." Journalists cannot be content to be taken along for a ride. The technology may be only a vehicle, but being able to drive it is an imperative if one is to have any say in where that vehicle is headed.

It is dangerous for journalists, whose job is deemed so crucial to society that it is protected by our nation's highest law, to stand on the sidelines as new media technologies emerge, take shape and spread. Yet so far, according to this study, they are. And that role as spectator is affecting their attitudes, whether they are chafing at the bit, afraid of the unknown or merely indifferent to the changes taking place. Their adherence to a belief in journalistic values is admirable but ultimately inadequate. They must be equipped -- both in terms of their mind set and their technological skills -- to maintain, practice and strengthen those values in the interactive media environment.

The "equipment" must come from two places. One is the newspaper industry. Publishers can start by providing greater access to online media and training in how to use them. The World Wide Web and the explosion in cheap and efficient "Web browsers" make the training more a tactic to address journalists' fears than a necessity to address their lack of experience; people who spend their days scrolling through wire service files will get the hang of it almost instantly. The access will require cash for computers and modems. It is worth the cost. Moreover, it is important that the access be inside the newsroom, for logistical and psychological reasons. Online sources must be easy to get without requiring a trip out of sight and sound of the reporter's desk and telephone. Access within the newsroom also help make interactive media seem routine, familiar and simply a part of the journalistic milieu.

The second step is to seek to more fully integrate the newspaper's own interactive service with the newsroom as such services come on line. A Newspaper Association of America report suggests that means everything from positioning online staffers in or near the newsroom to seeking out high-status journalists, such as investigative reporters, for input into what the online product should include (Opportunities in Anarchy, 1995). The author also would suggest hiring respected journalists from within the newsroom -- permanently or on a special project basis -- and turning them loose to do their stuff in an interactive format. Management must develop strategies to convincingly position online media as journalism; these findings indicate that may be the only way to get reporters and editors to start thinking seriously about such services.

The smart managers already know this. Former Chicago Tribune editor Jack Fuller recognizes the importance of a clear statement that the online product's goal is to fulfill the paper's social and leadership responsibilities by providing serious, in-depth journalism. "Most people in the newsroom feel these things," he says. "It's not like you have to teach them that these are their values. You have to reassure them that they are your values" (Moeller, 1994, 19-20). This study indicates some journalists have a deepening distrust of management's values. They may not change their minds about online media no matter what anyone says or does. But the odds will increase if the industry takes an big hint from diffusion theory (Rogers, 1995): Nurture the opinion leaders within the newsroom. They are the ones who will be most influential in the eventual adoption of the idea that journalists have a more active role online than merely watching their print stories appear in digital bits.

The notion of opinion leaders within the newsroom brings us to the second group to whom these findings offer potential significance. Newsrooms, like any other social institution, change constantly; their dynamic shifts as reporters and editors come and go, swap beats, change jobs, get promoted. As new college graduates enter the work force, attitudes toward interactive media are apt to change -- or at least, new attitudes will be introduced into the newsroom. Students are more likely than working journalists to have experience with the Internet not just as users but, as an increasing number of journalism programs offer courses and training in new media, as producers of online content. True, these new employees are not likely to become instant opinion leaders within the newsroom hierarchy. But they may begin to influence those who are and, in so doing, begin to change the culture they are joining.

If journalism educators also believe in the values expressed here by their former students, they have an obligation to encourage their current students to explore online media and think about them in creative ways. Computers are "cool," computer skills are in demand and the students won't need much urging. Administrators bewildered by expensive and constantly changing technology (and scared by proposals such as the 1996 Communications Decency Act, which would seem to hold them responsible for sophomoric abuses) may be harder to convince. But administrators ARE impressed by job placement rates. If students with online savvy more readily land jobs, then spread the enthusiasm for new media among their new colleagues, they may help create a widening circle of acceptance and excitement that benefits academy and industry alike.

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The Communications Decency Act: A Call to Keep a User-Friendly Environment

Justin Brown
Graduate Student
Telecommunications Studies
Penn State University
600 Toftrees Avenue #252
State College, PA 16803
(814) 237-3501
jsb15@psu.edu

Communication Technology & Policy Division
1996 AEJMC Convention

Abstract

The Communications Decency Act (CDA) is an attempt by Congress to control children's exposure to obscenity and indecency on the Internet. However, the CDA is unconstitutional as it fails to properly balance the rights of children and adults. The Internet does not fit neatly into any current regulatory model, and its characteristics are such that it should lend itself to enjoying a greater degree of freedom than broadcasting. New complexities also arise in determining obscenity and community standards on the Internet. The CDA diminishes the First Amendment and should be replaced with a more user-oriented regulatory approach.

Introduction

With increasing use of the Internet,[1] concerns have raised questions of how content should be regulated in cyberspace. Many users and commentators believe the Internet should be regulated based on the more purist, traditional intent of our First Amendment.[2] Additionally, there are those concerned about certain forms of harmful content, particularly the possibility of children accessing obscene or indecent material.[3] Aimed at fighting such abuse, the Communications Decency Act (CDA), provides us with one possible solution to how content may be regulated on the Internet.[4] Although the CDA's creators may have had good intentions and aimed to provide solutions to controversial debates over issues like pornography, the Act is overly broad and fails to pass constitutional muster. Unfortunately, the CDA imposes harsh restrictions on our First Amendment privileges.

This paper, by focusing primarily on indecency and obscenity, will demonstrate the complexities of applying current laws and regulation to the Internet. The inherent features of computer-mediated communication provide new topics of debate whose subject matter may outdate previous regulation. After invalidating the premises of the CDA, other alternatives will be considered. Many of these solutions offer greater First Amendment protection than is allowed by the CDA, placing more control in the hands of individual users and refining outdated laws.

Communications Decency Act (also referred to as the Exon Amendment)

A section of the Telecommunications Act of 1996, the Communications Decency Act prohibits obscene and indecent communications on the Internet. The large bill, a rewrite of the 1934 Communications Act, deregulates the telephone, cable television and broadcasting industries, [5] and regulates content in cyberspace.[6] Senator James Exon (D-Neb), co-sponsor of the bill, believes the CDA is necessary in order to protect children from receiving "the worst, most vile, most perverse pornography...only a few click, click, clicks away."[7]

Exon isn't the only advocate coming to terms with pornography on the Internet. Groups like the Christian Coalition and Enough is Enough, have lobbied heavily to crack down on proprietors of obscenity and indecency on computers. Enough is Enough Leader Donna Hughes Rice explains her viewpoint, stating, "A lot of people assume we are talking about pictures from *Hustler* or *Penthouse*. What were talking about would make all that look like Donald Duck."[8] Although its validity has been challenged,[9] the well-publicized Carnegie Mellon University study of obscene, sex-related traffic[10] also bolstered support for Exon's legislation. Moreover, stories of child abductions through on-line communications and related Justice Department crackdowns[11] demonstrate further dangers for children on the Internet.

CDA Specifics (see Appendix 1 for entire amendment)

The Communications Decency Act changes Title 47, United States Code, Section 223. This section prohibits obscene and harassing phone calls, allows telephone services carrying indecent content to be regulated and prohibits these same services from providing legally obscene content.[12] The CDA changes the scope from telephones to "telecommunication devices," thereby including computers and the Internet. It also imposes a fine of up to $250,000 and a possible two-year jail term to anyone who knowingly permits a "telecommunications facility" under his or her control to be used for the transmission of obscene or indecent communications. The prohibition of indecency only bars sending materials "to any person under 18 years of age."[13] Historically, with regard to telephony, common carriers are 'neutral conduits' and are not responsible or liable for controlling content over their phone lines. On the other hand, Internet service providers and on-line services like Prodigy are not considered common carriers and therefore may be held liable for content.[14]

The CDA also imposes the same punishment on those individuals who use a telecommunications device to harass another individual. Specifically, this harassment may include the making, creating, soliciting or initiating of:

> any comment request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten or harass another person.[15]

This provision covers not only harassment but also includes penalties if another person annoys another individual. Overall, the CDA expands telephone coverage to include computers, adds new provisions beyond harassment, and prohibits obscene and indecent communications (to those under 18 years of age).

Besides indecency and obscenity, the CDA also regulates speech found "patently offensive." In order to fall under this categorization, the communication must "in context, depict or describe, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs." This applies to individuals who knowingly use an interactive computer service to send or display material to persons under 18 years of age. It also applies to persons who knowingly permit a telecommunications facility to be used to transmit or receive "patently offensive" material.[16]

The CDA also contains special liability exemptions. First, Internet service providers not involved in the creation of content may be excluded from liability for indecent and obscene communication. Second, those who act in "good faith" and demonstrate a reasonable effort to prevent indecent and obscene communications may also be exempted from liability. This exemption more than likely covers a system operator (SYSOP) on a Bulletin Board System (BBS) or an on-line service like CompuServe.[17] For instance, if an on-line service is using blocking mechanisms like filters and screening software and monitors, the service would probably be exempted under liability, as any indecent or obscene material would be viewed as having been sent over its networks unknowingly. Because most commercial services have the resources to provide a "good faith" effort, they would most likely be exempted from liability. On the other hand, a small, independent BBS SYSOP may have a tough time meeting the test of the "good faith" effort.[18]

Indecency Regulation of the Net Unconstitutional

The Exon Amendment is inconsistent with current indecency law and precedent. Indecent speech is protected by the First Amendment in most instances, with exceptions primarily occurring in broadcast.[19] When examining past indecency cases, and weighing factors like pervasiveness and affirmative steps, it is clear that CDA regulation of indecent speech is unconstitutional. By placing children's interests ahead of other users, the Exon Amendment unnecessarily takes First Amendment privileges away from adults[20] and, in turn, creates a "child safe"[21] content environment.

Upon passage of the Telecommunications Act of 1996, two federal challenges were filed to block the CDA.[22] As a result of the first injunction, a district court judge issued a temporary restraining order on the indecency and patently offensive portions of the Act.[23] After review, a three-judge panel in Philadelphia ruled these portions unconstitutional and blocked the law's enforcement. In the opinion, the panel adamantly supported free speech in cyberspace. U.S. District Judge Stewart Dalzell writes, "as the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion."[24] Because of a special appeal process written into the law, the Supreme Court will review the panel's decision because of an appeal made by the Department of Justice.[25]

Litigation and case law regarding indecent speech is nothing new in mass communications. The following sections will provide a discussion of previous cases involving indecency in broadcasting, telephony and cable. After showing how these media have been regulated, an argument will be made that indecency regulation on the Internet can not be sustained. Current characteristics of the Internet and alternatives to control content will show that not only are there fundamental differences between broadcasting and the Internet, but there are also better, less restrictive ways to curb indecency in cyberspace.

Scarcity and Pervasiveness in Broadcasting

Compared to other media, broadcasting "has received the most limited First Amendment protection,"[26] under the premise that broadcasting uses a scarce, public resource and is uniquely pervasive. In Red Lion Broadcasting Co. v. FCC, the Supreme Court upheld the fairness doctrine and determined "it is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."[27] Moreover, it recognized that the government's role in allocating frequencies and content were justified under the scarcity of broadcast frequencies because not everyone could afford to build a station and obtain licensing.[28] The Court held that a broadcaster is a "public trustee."

In FCC v. Pacifica,[29] the Supreme Court furthered the argument for more regulation by backing the FCC in its decision to regulate indecency over the airwaves. The Court found that broadcasting casts a pervasive presence onto the viewer or listener.[30] A New York radio station broadcasted comedian George Carlin's twelve-minute "Filthy Words"[31] monologue at two in the afternoon. A man, who had been driving with his son at the time of the airing, wrote a letter complaining about the broadcast. Upon review, the FCC found Pacifica had broadcast indecent language in violation of federal law. Even though the monologue was part of a larger program about society's attitude toward language, the FCC was concerned about the content and its possible exposure to children who were in the audience.[32] The Court upheld the FCC's determination that "Filthy Words" was indecent and supported the FCC's sanctions on Pacifica and other licensees who engaged in indecent broadcasting.[33]

The Court justified its decision based on the fact the broadcasting provides "a uniquely pervasive presence in the lives of all Americans."[34] Material sent over the airwaves "confronts the citizen" wherever the listener may be. This confrontation should not include "patently offensive, indecent material," as it invades an individual's right to be left alone:

> Because the broadcast audience is constantly tuning in and out, prior warnings cannot completely protect the listener or viewer from unexpected program content. To say that one may avoid further offense by turning off the radio when he hears indecent language is like saying that the remedy for an assault is to run away after the first blow.[35]

The Court believed that this pervasiveness is unavoidable for the listener or viewer, as they may turn on the radio or turn the dial at any time without necessarily knowing what may be presented. Critics have suggested that people can simply avert their eyes or ears to something else if they are offended by programming. The Court, however, believes the damage would have already occurred from such speech.

In *Pacifica,* the Court also believed this type of damage could be very harmful because "broadcasting is uniquely accessible to children" and could "enlarge a child's vocabulary in an instant."[36] Unlike materials at a bookstore or movie theater, children have easy access to indecent materials if they turn on a radio or television. Moreover, they may use a television or radio at home without parental supervision. The Court turned to Ginsberg v. New York [37] to support their decision. In *Ginsberg* the government's interest in the overall "well-being" of children and its support of the parents' authority in their own homes justified regulation of "otherwise protected expression." Therefore, given the ease with which children may access broadcasting, and based on their findings in *Ginsberg*, the Court found that regulation of indecent broadcasting could be justified to protect children in *Pacifica*. The distinctions made regarding scarcity and pervasiveness in *Red Lion* and *Pacifica* are important points. Certainly, content regulation of the Internet must show some degree of scarcity and pervasiveness must exist in order to uphold indecency restrictions.

Safe Harbor on the Airwaves for Indecent Material

In order to respond to Congress and court rulings, the FCC created a "safe harbor" for viewing indecent material on broadcast television.[38] In Action for Children's Television v. FCC (ACT III)[39] the circuit court ruled the FCC's latest attempt to balance the interests of children and adults violated the First Amendment. The ban, prohibiting indecent material shown from 6 a.m. to midnight,[40] was found not to be the "least restrictive means to advance its interests in the protection of children."[41] The circuit court, using the differences in viewing habits ranging from those of a eight-year-old to those of a 17-year-old, determined that the government "must remain sensitive to the expanding First Amendment interests of maturing minors."[42] Moreover, the court questioned the FCC's evidence and data to support the balancing of the First Amendment rights of adults to those of maturing children.[43]

The court also believed that indecent material would only be shown when the majority of adults and children were asleep. The court determined that the FCC had failed to take First Amendment interests of adults into account when advancing its compelling interests in the protection of children. Because the safe harbor ban was neither justified or narrowly tailored, the court ruled it unconstitutional and remanded to the FCC.[44] The *ACT III* decision shows that adult rights must be taken into consideration when attempting to protect children from indecency. Furthermore, in *ACT II* the district court struck down a 24-hour ban on indecent material.[45] Clearly, the district court has determined that indecency may be protected by the First Amendment and may not be banned solely based on the argument of protecting children. This recognition demonstrates that a ban of indecency on the Internet must be properly weighed between adults and children, and narrowly drawn to remain constitutional.

Dial-a-porn & Affirmative Steps in Telephony

In telephony, the balancing of children's and adults' interests is also illustrated by the "dial-a-porn" business.[46] In 1988, Congress passed an amendment to the Communications Act outlawing both indecent and obscene telephone messages.[47] In a case involving dial-a-porn, the Supreme Court upheld the obscenity ban but found the indecency ban unconstitutional.[48] The Court believed the amendment was not narrowly tailored to serve the government's compelling interest in protecting children. The Court concluded that dial-a-porn service was not pervasive like that of a radio broadcast, stating that, "placing a telephone call is not the same as turning on a radio and being taken by surprise by an indecent message."[49] Additionally, the Court pointed out that callers having to call and take affirmative steps to access indecent messages, such as dialing a credit card or access code, represented a feasible and effective way to serve the government's compelling interest in protecting children.[50] Thus, in *Sable* the Court found that adults should have the freedom to hear indecent messages by means of dial-a-porn. This decision is significant to regulating cyberspace because most users have to take affirmative steps to access material, including indecency.[51] *Sable* makes a clear distinction between the pervasiveness of broadcasting and telephony and more importantly, justifies adults to access indecent material if they are taking affirmative steps.

Indecency Allowed on Cable Television

Even though "safe harbor" restrictions prohibit the airing of indecent material on broadcast television, cable operators may air such programming at any time. In Denver Area Educational Telecommunications Consortium, Inc. v. FCC, the Supreme Court found cable operators may refuse to air indecent programming on their leased channels, but may not refuse indecent programming on public access channels. Additionally, the court determined that cable operators do not have to segregate patently offensive material onto one single leased channel.[52]

Today, many systems offer adult-oriented pay-per-view movies and separate pay-TV channels, like the Playboy Channel. In Cruz v. Ferre,[53] a district court found a city ordinance regulating indecency on cable television to be constitutionally overbroad. Unlike broadcasting viewers, the court found that cable viewers had to take several steps including subscribing to the television service and deciding to add any extra television programming services, like pay-per-view or HBO. The district court sighted parents' ability to use a lock-box or key device provided by the cable operator as an effective measure of preventing children from watching any objectionable material.[54] With the exception of *Denver Area*, previous banning of indecent material has not been upheld by a federal court, or even frequently litigated for that matter.[55] In 1992, Senator Jesse Helms added an amendment onto the Cable Act allowing operators to restrict indecency on public and leased access channels.[56] But, neither the amendment, the Act nor *Denver Area* creates an absolute ban precluding cable television operators from carrying indecent material on their systems.

Internet Not Pervasive, Requires User to take Affirmative Steps

Given its inherent characteristics, the Internet is not as pervasive as broadcasting. One cannot simply turn on a computer and receive materials from the Internet. Before even receiving information from the Internet, a user must take steps to obtain a computer. One must also have a modem, the necessary access and browsing software, and an access provider. There must be a physical connection, either through the phone line or networking cable, from one's house or office as well as to the Internet. In broadcasting, one needs only an antenna and a television or radio to receive programming and may simply turn their dial to receive programming. However, when on the Internet, a person must have a working knowledge of how to use a computer and connect to a network. Once connected, a user must be able to navigate to his or her respective e-mail or Internet browsing applications.

Additionally, a user on the Internet usually knows the type of information he or she wants to seek out. More often than not, he or she has the ability to control access to the material being viewed.[57] In *Pacifica* the court found objectionable content in broadcasting to be unavoidable to the listener. With the Internet, much like the Court's reasoning in *Sable,* a user takes affirmative steps to receive specific types of content. Users must have a specific address to reach their destination. In instances that involve accessing indecent or pornographic materials, users usually go through a series of warning flags. Moreover, many SYSOPs on BBSs require users to identify a credit card or driver's license to prove their age.[58] Because a user takes affirmative steps in setting up his or her system and accessing and finding material, the Internet is clearly not analogous to the unavoidable pervasiveness of broadcasting.

Exon Amendment Squelches the Free Speech of Adults

In the cases presented thus far, the courts have based their decisions on whether or not indecency restrictions were narrowly tailored, or were the least restrictive means possible and have upheld adults' rights to access indecent speech. By restricting indecent speech from those 18 and under, the CDA places a chilling effect on adult speech. The indecency provisions would include public postings to newsgroups and material available on World Wide Web (WWW) pages that potentially reach thousands of people around the world. Unfortunately, children are able to read postings and WWW pages, some of which may contain indecent material. Because the material would be available to children, adults would be unable to post indecent speech on newsgroups and homepages.[59] Therefore, material that contained the "seven dirty words" and sexually explicit material would be unavailable to adults on much of the Internet. The end result of regulating indecency on the Internet in this fashion could result in only allowing the reading and writing of content that is deemed acceptable for children.[60] Ironically, the 18 and under provision allows an 18-year-old to post or make available indecent material to another adult.[61]

Moreover, the language contained in the harassment provision of the CDA includes the word "annoy." If any adult is annoyed by an "indecent, lewd or lascivious" communication, the sender of the message or posting could be found in violation and fined up to $250,000 and be sentenced to two years in prison. We know that people are annoyed for various reasons. For instance, if an adult puts one of the "seven dirty words" on a posting and someone receiving that message is annoyed, the sender could be fined. This is regardless of whether or not children are able to read such a posting.[62]

Clearly, this annoyance provision chills indecent speech among adults. Adults would be afraid of using a swear word or talking about anything remotely sexual in nature for fear that they would annoy another individual. Additionally, "lewd," "lascivious" and "patently offensive" content may include material that may not even be found to be indecent.

Both of the above provisions would keep adults from posting indecent messages because of the fear that a child would read the material or another adult may be annoyed by such an occurrence. In broadcasting, telephony and cable, adults do have rights to access indecent speech and do not have to worry about who else may have access to indecent material. Given the precedent, the CDA is overbroad in limiting adults ability to access and post indecent material. As legal expert Robert Corn-Revere points out, the Exon Amendment may even create "Comstockery in cyberspace." Projects like Project Gutenberg, which makes classic works of literature available on the World Wide Web, would be defeated in purpose and be forced to censor material and limit access to others. Corn-Revere believes the situation would be a throw-back to the days of conservative book-banner Anthony Comstock. The book-banning would simply move to a new battleground on-line.[63]

The CDA isn't Narrowly Tailored; Other Least Restrictive Means Available

Indecency is a protected form of speech under the First Amendment. As previously shown through cable, telephony, and broadcasting cases, any regulation reducing children's access to indecency must be narrowly tailored. When written and passed, the CDA failed to carefully balance the right of adults to access indecent material on the Internet. Congress also failed to recognize that individuals on the Internet have primary control over what they receive, as users take affirmative steps to access material.

Currently, there are less restrictive measures available than what the CDA proposes. Already many adult SYSOPs ask for proof of age by requiring a photocopy of a driver's license or a credit card before they will allow users to participate.[64] Instead of banning indecency, parents may take more control over the children's access to material. There are services and software programs available, like SurfWatch,[65] that can help parents block content containing pornographic material.[66]

Many on-line services, public schools and universities already block content to particular Usenet groups.[67] New Internet access providers, like Siecom Inc., provide 20 elementary and secondary schools with restricted, one-way access to the Internet. Siecom also allows schools to scan all incoming and outgoing student e-mail for objectionable words.[68] New on-line services like WOW, geared primarily toward children, are being introduced and marketed.[69] Additionally, a computer industry consortium is developing PICS, a rating systems platform, to help parents and other users filter material on the Internet.[70] These alternatives, although not perfect, do allow parents and educators more control in determining what children may see or read on the Internet. Because many of these options can be turned off by adults, they allow adults to be free to access and transmit indecent material whenever they wish.

Although they were not included in the Telecommunications Act of 1996, two legislative alternatives are more narrowly tailored than the CDA. Sponsored by Representatives Cox (R-Calif) and Wyden (D-Ore), the Internet Freedom and Family Empowerment Act would leave most of the responsibility of Internet content on users and bar the FCC from regulating the Internet.[71] Among other provisions, the Act calls for further development and use of parent control features, like screening filters. The Child Protection, User Empowerment, and Free Expression In Interactive Media Study Bill, sponsored by Senator Leahy (D-Ver) and supported by the Clinton Administration, calls for the Justice Department to study ways to deal with sexually explicit material on the Internet before making recommendations or passing legislation.[72]

The above legislative proposals and technologies are less infringing on the free speech rights of adults and offer solutions to control children's access to indecent material on the Internet. As technology progresses, improvements should be made in control mechanisms that will allow parents to block objectionable material. Because there are less restrictive means available to control indecent speech on the Internet, the Exon Amendment is unconstitutional.

Constitutional Complexities of Obscenity in Cyberspace

Unlike indecency, obscenity is not a protected form of speech,[73] but is instead determined by local community standards.[74] The CDA prohibits the transmission of obscene material on the Internet. The problem with such a provision is that it fails to account for how local community standards apply to the Internet. If the CDA were to pass, further litigation would need to clearly determine what type of standards apply. Would it be the local community standards of the material's source? The material's transport network? The material's destination? What happens if material is obtained from a foreign country? Besides the ambiguity regarding what local community standards apply, precedent already exists for allowing people to view obscenity in their own home.[75]

Already, the Amateur Action BBS case illustrates the difficulties involved when applying local community standards in cyberspace.[76] After providing a brief explanation of the Miller Test, this section will discuss the Amateur Action case and its complexities as applied to the CDA. Unfortunately, current obscenity law fails to take in to account the virtual presence characteristics of cyberspace. In its current form, the CDA may be seen as taking the lowest common denominator, conservative standard, and applying it to all users on the Internet. This national obscenity standard, something the Supreme Court avoided by creating the Miller Test,[77] is overbroad and therefore unconstitutional.[78]

The Miller Test and Local Community Standards

The current test to determine obscenity was formulated by the Court in Miller v. California. In order for a jury to find material obscene they must apply the following three-part test:

> (a) whether "the average person, applying contemporary community standards" would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value.[79]

The jury must apply its own local contemporary community standards. The Miller Test can be applied to state and federal laws; thus, distributors may be subject to the standards of both local communities and federal districts. Because tastes and local standards may vary in different communities, areas like New York City may purvey more sexual material than a city located in the Bible Belt. In other words, conservative municipalities can exercise their powers to protect the general welfare of their citizens from explicit sexual content while liberal communities may allow more explicit material than is allowed nationally.[80]

Applying the Miller Test to the Internet creates new difficulties. For example, it is unclear how local community standards may be interpreted when applied to a nonphysical community like the Internet. Unlike going to a library or grocery store, no one will actually physically walk to obtain material from a Usenet server; instead he or she will create a virtual presence from their own home. Also, it is unclear as to what material on the Internet would be defined as the work in question. As shown, the work must be "taken as a whole." Should a Usenet posting be considered obscene if that posting, and only that posting, is sexually explicit when the Usenet group doesn't usually carry such content? Unfortunately, the Miller Test is vague when applied to a new technology like the Internet.

Amateur Action BBS: What Standards Apply?

On July 28, 1994, a federal jury in Memphis, Tennessee, found Carleen and Robert Thomas guilty of disseminating obscene material by computer and interstate telephone lines.[81] The Thomases operated a private, subscription-only BBS out of their home in Milpitas, California. The BBS, called Amateur Action Bulletin Board, offered adult, sexually-oriented materials to its subscribers.[82] Subscribers were able download adult computer graphic files to their computers and order photographs and videotapes on-line to be mailed to their homes. The Thomases were indicted after a postal inspector, who had subscribed to the BBS under an assumed name, was able to download graphic sexual material and chat on-line with Robert Thomas about sending child pornography.[83] The charges included six counts of using a computer and telephone system for the purpose of transporting obscene material.[84] The Thomases were also charged with three counts of using a common carrier (United Parcel Service) for carrying obscene material[85] and three other counts, including one violating federal child pornography law.[86] The Thomases failed to move the trial to California where the material originated so that their local community standards would apply.

Instead, they were found guilty of the obscenity charges based on the conservative standards of Memphis, Tennessee.[87]

The Amateur Action case shows the ambiguity of current obscenity law when applied to the Internet. For instance, if an adult bookstore is physically located in Memphis, one would be able to apply its local community standards to determine whether the material in question is obscene. On the other hand, material on the Internet doesn't exist in walk-in, locations like bookstores. Instead, the distributor may be located in areas where obscene material is granted greater freedom like San Francisco or New York City. In the medium of cyberspace, it is possible for an individual to go virtually anywhere in the world without leaving his or her home. A user can be virtually present on a server in California, while accessing obscene material from Memphis, a location where the material would be deemed obscene according to local community standards.

In the Amateur Action case, the judge decided that Memphis standards would apply because the Thomases transmitted the material to Tennessee. The judge's rationale is that many porn vendors located in more liberal jurisdictions have been prosecuted in the past for distributing obscenity by mail. Given these convictions, many vendors make deliberate decisions not to distribute material into areas known for their conservative communities. Unfortunately, the judge ignored the complexities of virtual presence in cyberspace. Many SYSOPs do not always know where a user may be accessing material from or when they are accessing it. Instead, some SYSOPs rely on automatic operation, especially during overnight periods. Furthermore, users may lie to a SYSOP about where they live, or may move and retain their account. Unlike the mail system, SYSOPs may not even know where they are sending material. Furthermore, even if SYSOPs knew all the community standards and state obscenity laws of their users, nothing would protect them from users who abuse the system.[88] Legal expert Mike Godwin questions whether the standard in Amateur Action is rational:

> Does it make sense for a court to infer a defendant's criminal intent because neither he nor his BBS can ensure that someone cannot download that material into the state?[89]

Godwin believes that SYSOPs won't be able to ensure where they are sending the material, and to avoid a prosecution like the Thomases they will have to abide by the conservative standards of Memphis.[90]

Amateur Action shows that some type of community standard clarification is needed. Imagine a Usenet group that has automatic posting abilities discusses obscene material. This Usenet group has more than 5,000 different users a day accessing material from just as many locations across the U.S. What community standard would apply? Would the server's location be the local community standard? Would Chicago be the standard for an individual in Chicago or would a Memphis standard prevail? Moreover, if anonymous users had been posting messages, who would be indicted on obscenity violations? Would any person's local community standard apply? Would a SYSOP using automatic posting software, be indicted because he or she put together a system whose server was located in Times Square? Such vagueness lies when a physical, real-world local standard is applied to a virtual, global village like the Internet.

Lowest Common Denominator Becomes National Standard

Until another case comes along, it appears that the lowest common denominator standard, represented by Memphis, Tennessee or another conservative community, has become a national standard for obscenity on the Internet. This is despite the fact that the Supreme Court specifically avoided creating a national standard in Miller v. California.[91] The Court didn't want Memphis or the Bible Belt to dictate what people in a place like San Francisco would see. Surely such a national standard would not please users in more open-minded communities, nor will be applicable in all foreign countries. Given the Court's own creation of applying local community standards, such a national standard is overly broad and unconstitutional.

A Virtual Alternative

In order to avoid a national standard, obscenity on the Internet could be determined by virtual community standards.[92] Already many BBSs, on-line services, Usenet and listserve groups create their own communities on the Internet.[93] Commercial services like Prodigy provide users with city-like offerings where they may visit and choose to view news or sports, chat with other members, shop or leave their community to visit other sites on the World Wide Web. BBSs, Usenet and listserve groups usually provide users with a particular topic or subject where they send and receive messages to and from one another within their own community. Often these communities will form their own governmental structures by creating their own rules. Although users may come from different parts of the world and don't live physically in the same community, they do share certain commonalities. Instead of using local community contemporary standards to determine obscenity, the Internet could apply virtual contemporary community standards. This would allow for the varying degrees of obscenity currently accepted in the physical localities around the country to co-exist in Internet communities. Users who objected to such material could find a Internet community to their liking. When reinforced with the federal statute making child pornography illegal, the virtual community standard would still allow the prosecution for the possession and distribution of hard-core pornography. Moreover, the adoption of the virtual community would not tolerate a lowest common denominator, national obscenity standard.

No New Remedies in the CDA

Whether a new virtual standard is created remains to be seen. As it stands, obscenity is not protected by the First Amendment. Local community standards determine what may be obscene. But, unfortunately the complexities of cyberspace do not create narrowly defined local communities. If the user's community is used as in Amateur Action, such a national obscenity standard is overly broad in its scope. Because the CDA prohibits obscenity on the Internet and fails to clarify what local community standards apply, it will likely face strong constitutional challenge. In fact, unless there is new legislation passed by Congress or judicial review to modify community standards as applied to cyberspace, the obscenity provisions of the CDA are unconstitutional and inconsistent with the Miller Test.

Liability: Good Faith Hurts First Amendment

The Exon Amendment provides SYSOPs with exemptions from obscenity and indecency liability if they have provided a "good faith" effort. For example, if an on-line service takes steps to warn users, blocks content to objectionable sites, responds to complaints about obscene or indecent material, includes obscenity and indecent provisions in its terms of service, and also uses screening software and monitors, it would probably be shown as having given a "good faith" effort. More than likely, given such an effort, any indecent or obscene material would be viewed as having been sent over its network unknowingly. Because most commercial services would have the monetary and personnel resources to give a "good faith" effort, it can be assumed they would most likely be exempted from liability.

Small SYSOPs Struggle to Implement "Good Faith"

On the other hand, a small, independent BBS SYSOP may have a tough time meeting the test of the "good faith" effort. Many would not have the resources to employ blocking applications on their systems. Although they may be able to use some type of software screening system, it is highly unlikely that they would be able to do so at a quick rate, as many independent SYSOPs have only one server and use automatic posting mechanisms. Hiring individuals to monitor and censor content would be extremely costly. Instead of running what was once a nearly free-of-charge service, providers would be faced with either closing shop or charging users high access fees. Most listserves and Usenet SYSOPs exist on the basis of their free posting and access systems. Fees to such public types of forums would more than likely limit users and speakers. The lack of small, independent SYSOPs to control access and censor content would be a strike against free speech and would reduce the number of voices and speakers on the Internet.

FCC Becomes Internet Arbiter

The above examples are hypothetical, showing the types of "good faith" standards that may be set. In reality, the FCC would have to become an arbiter on the Internet. First, the FCC would set guidelines for indecent content. Using the FCC to regulate the indecency in cyberspace would probably mean setting similar standards as in radio and television. Second, the FCC would have to help define a "good faith" effort by setting guidelines to control children's access in order for Internet service providers, on-line services and SYSOPs to avoid liability.[94] Given the eight years it took for the FCC to come to final rules for blocking 900-number phone services,[95] it would probably take a long time for the FCC to come up with restricting guidelines. This uncertainty and ambiguity would more than likely hurt the development and free speech of the Internet. The FCC may in turn create child access standards for every piece of the Net. Such a standard setting, combined with the Commission's tendency to enforce restrictive rules as evidenced in broadcasting, would also hurt the development of the Internet and free expression.

Liability: May be a distributor or a publisher?

The CDA does provide some guidance to determine whether or not on-line services, Internet service providers or individuals may be treated as publishers. The Act states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." An interactive computer service is defined in the Act "as any entity that is responsible for the creation or development of information provided through the Internet or any other computer service."[96] In other words, Internet service providers and users who don't not create content are not classified as publishers and will more than likely not be held liable for obscene and indecent material.

Two libel cases involving commercial on-line services make important distinctions worth considering when determining who is a publisher and who may fall under a "good faith" exemption clause.[97] In Cubby, Inc. v. CompuServe, Inc., the plaintiff sued CompuServe for defaming its names and on-line service, called Skuttlebut. The alleged defamation appeared on Rumorville, USA, BBS, part of CompuServe's offerings on its Journalism Forum.[98] CompuServe claimed to have no knowledge of the material and no opportunity to censor it. Additionally, CompuServe had signed an agreement whereby Rumorville accepted total liability for the contents of the material.[99]

The court found CompuServe to be a mere distributor of information. CompuServe wasn't required to be aware of all the contents of the material on their service. The court found them to have responsibilities similar to a library:

> CompuServe has no more editorial control over such a publication than does a public library, bookstore, newsstand, and it would be no more feasible for CompuServe to examine every publication it carries for potentially defamatory statements than it would be for any other distributor to do so.[100]

Because CompuServe acted as just an information provider, it was exempted from being found responsible for content. This case is significant in its relation to the CDA. Instead of being slanderous, pretend the information contained indecent material. If the *Cubby* holding is true, would CompuServe be liable because it was a mere distributor of information? If not, it may mean that distributors like CompuServe wouldn't have to provide a "good faith" effort such as using filters to examine their content.

In the above case, CompuServe was found not to be acting as a publisher with editing functions. In Stratton Oakmont v. Prodigy Services Comapny[101] however, a state supreme court determined that Prodigy is a publisher. The plaintiff in the case contended that his business had been defamed on Prodigy's Money Talk computer bulletin board.[102] Despite arguing that there was no way to examine more than 60,000 postings a day on its bulletin boards,[103] the court found Prodigy exercised enough control over its content to be considered a publisher:

> First, Prodigy held itself out to the public and its members as controlling the content of its computer bulletin boards. Second, Prodigy implemented this control through its automatic software screening program, and the Guidelines which Board Leaders are required to enforce. By actively utilizing technology and manpower to delete notes from its computer bulletin boards on the basis of offensiveness and "bad taste", for example, Prodigy is clearly making decisions as to content and such decisions constitute editorial control.[104]

The court further stated that such control by on-line services threatens free speech in cyberspace and suggested that the electronic bookstore model apparent in *Cubby* could provide the greatest freedom of from liability. Overall, *Srattmont* is an important ruling for those bulletin boards and services who use censoring devices on the Internet. If one censors or even uses filtering software, he or she becomes a publisher and may be held liable for any content.

Together *Cubby* and *Strattmont* add more legal complexities to the Exon Amendment's "good faith" and non-publisher exemptions . For instance, *Cubby* says if one does not become an editor of content, one should not be liable for content. But the CDA prohibits the transmission of obscene and indecent material. In order to show a "good faith" effort, the FCC may require the use of editing tools such as content filters and monitors. Now the bulletin board who didn't want to censor content is more or less mandated in order to avoid claims of carrying indecency and obscenity. According to *Strattmont*, these bulletin boards are deemed to be publishers because they are making editorial decisions. Now they could be held liable in defamation cases.

Moreover, on-line commercial services like Prodigy, that currently use filters and monitors to edit content, may be exempted frequently for carrying indecency and obscenity because they give a "good faith" effort. Because the CDA contains this provision, it may be difficult to ever prosecute a service like Prodigy. In reality, law enforcement won't be able to catch all the obscene electronic bits that are on Prodigy. In a way, the "good faith" provision ends up being a blessing in disguise for companies like Prodigy because they will probably never be prosecuted for such content.

Ambiguity also lies in the CDA's non-publisher exemption. It remains to be seen whether or not the CDA's creation of content exemption for an interactive computer service would deem Prodigy to be a publisher. Is editorial control, censoring or acting as an agent enough to be a creator of content? Will the use of screening software to block out indecent communication fall under the creation of content? If so, Prodigy and any other on-line service that is providing a "good faith" effort would be deemed to be a publisher. The non-publisher exemption is vague and a slippery-slope type of classification. The question remains: What degree of editorial control or censoring makes an on-line service or Internet service provider a creator of content and more importantly, a publisher? Both *Cubby* and *Strattmont* add uncertainity to the CDA by bringing up unanswered questions regarding liability and content creator and publisher classifications.

Effort to Censor Leads to Intrusion & Diminished Speech

As already pointed out, the CDA would hurt the First Amendment by creating a child-safe content standard for indecency and by not clarifying the lowest common denominator obscenity standard for the Internet. The addition of a "good faith" exemption seems to give credence to those services that are taking the responsibility on their own shoulders. Unfortunately, these services would have to use intrusive censoring software and monitoring if they were to be effective. These filters don't catch everything and may censor material that isn't obscene or indecent. Nonetheless, people's messages and behavior will be monitored by their chosen service. To determine whether or not a service is giving a "good faith" effort, or to simply check for obscenity and indecency, the government may also step up efforts to monitor services and users. This big brother fear inducing behavior may very well have a chilling effect by making many people reluctant to use the Internet and discouraging them from joining cyberspace.[105] The CDA also diminishes the existence of small SYSOPs running bulletin boards, listserves and Usenet groups. Many of them would lack the resources to carry out a "good faith" effort to avoid any liability for obscene and indecent material. Such a consequence would reduce the diversity of content and chill speech on the Internet — a blow to the First Amendment.

Alternatives to the Exon Amendment

The CDA is not the only way to control indecency and obscenity on the Internet. As mentioned earlier, the Leahy and Cox/Wyden alternatives offer less restrictive measures than the Exon Amendment.[106] But, as the House and Senate conferred on the Telecommunications Act of 1996, there were more restrictive proposals offered by Rep. White (R-Wash.) and Rep. Hyde (R-Ill.).[107] Even despite these legislative efforts, there are already less restrictive means to curbing indecency and obscenity in cyberspace. These measures include developing more user control mechanisms, creating kid-only networks and refining the Miller Test. Moreover, as the Internet represents a new medium, some type of new regulatory classification must occur because the Internet is not completely analogous to broadcasting, print, cable or telephony. This new model should incorporate certain features such as placing control and liability in the hands of users and encouraging free speech as much as possible.

Less Restrictive Means are Available

Parental screening, blocking and filtering are all mechanisms that may help curb and control children's access to indecency on the Internet. Parents have a unique ability to sit down with their children and show them the benefits of cyberspace. By effectively learning the Internet themselves and becoming aware of harmful sites, parents may warn their own children about the dangers of obscenity and indecency on the Net. Such an open discussion with their children may in fact lessen the possibility of a minor wanting to access such material. Given that a parent may not be able to supervise a child at all times, parents and schools may also use software screening programs like SurfWatch.[108] With the help of the industry consortium PICS standard, parents will also be able to select and establish their own content ratings for their child on the Internet.[109] Already many adult services require some identification and a credit card to be able join a BBS. Such a blocking mechanism is usually effective in preventing children from accessing these services. When combined, these alternatives, although not perfect, are effective in diminishing a child's risk of seeing indecent and obscene material on the Internet. These tools place the control in the hands of parents and may be turned on or off by them. As technology improves, so will the ability for parents to control what his or her child will see. Most importantly this type of user control carefully balances the rights of adults to access and transmit indecent material.

As these technologies improve, and as more children use the Internet, there will probably be a higher demand and growth in the development of kid-networks. One such on-line service WOW, created by CompuServe has recently been introduced.[110] These types of networks may be able to effectively dissuade children by creating services designed primarily for kids. In other words, perhaps part of the problem today stems from children interacting in mainly adult-oriented environments of cyberspace. If a service like Prodigy was designed only for kids, imagine how popular it would be. Teens would be able to talk to teens and children could access cartoons and read about their favorite *Nickelodeon* shows. Granted, these services may not be developed until there are effective blocking and screening measures keeping children away from adult predators. Such a service would also probably have a severe content monitoring component to ensure safety. But, if successful and combined with a parents ability to control content, children will be even more limited in their ability to access indecent material.

A Virtual Alternative or Refinement of the Miller Test

A national obscenity standard is something the Supreme Court purposely avoided by developing the Miller Test.[111] In order to avoid a lowest common denominator standard as suggested by the Amateur Action case, obscenity on the Internet should involve some factoring of virtual community standards.[112] Today, many virtual communities exist with their own sets of rules and guidelines. The members in such communities may come from all over the world and have generally consented or agreed to take part within the established rules. These communities include public Usenet groups and even private BBS services like Amateur Action. The user in Amateur Action may have different contemporary standards than a user in a Usenet group on the subject of recipes. Because the Miller Test includes a varying degree of obscenity tolerance among different communities, a similar approach should be included on the Internet. In any event, a refinement or further clarification beyond Amateur Action is needed to determine which standards should apply on the Internet. After all, the Miller Test was never made to take into consideration the technologies involving virtual presence from the privacy of one's own home.

Move Toward a User Rights & Responsibilities Model

As evidenced in examining indecency, many media enjoy different degrees of First Amendment regulation. Telephony, cable, broadcasting and print are partially regulated on the inherent characteristics of the technology. For instance, because spectrum is considered a scarce, public resource, broadcasting receives the most limited First Amendment protection.[113] Moreover, because telephony is considered an essential lifeline of communication between individuals, it is regulated as a common carrier and considered a neutral conduit for the passing of information. Unfortunately, the Internet involves characteristics that are blended in all of these different mediums and regulatory models. In other words, cyberspace does not fit neatly into any existing structure.

There are some very important characteristics of the Internet which must not be overlooked when developing a new model. For instance, anyone with access to a modem, computer, software and an Internet service provider may become both a publisher and consumer of information globally. The medium itself allows for two-way, interactive communication around the world, enabling an individual to establish a virtual presence on other servers and to find information. Most importantly, users can make their own decisions and take affirmative steps, actively seeking out information that they want read or respond to. In some ways, it's as if everyone has access to an electronic library. Instead of just going down to the local community library on Main Street, users may do so from their own home. In order to get to other libraries in the world, people must be able to find out where they are. Their computer will not find and disseminate information to them by being turned on. Users are active participants by not only choosing where they travel, but also by deciding what information they obtain when they are at a library.

Any new regulatory model should take into account that the primary control and responsibilities lie within each user. Not only should every user be responsible for determining what content they receive and transmit, they should also be held accountable for any obscene material they obtain and disseminate.[114] In a User Rights and Responsibilities Model, users would be able to access control mechanisms such as filters to control any indecent or obscene material from reaching themselves or their children. Moreover, much like a user, Internet service providers and on-line services would only be liable for the content that they produce and publish directly. They could still use filtering tools to help censor objectionable materials but they would remain exempt from liability unless they become a direct publisher. Much like a individual user who makes obscenity available, the on-line service would be only responsible for the content that it produces. Liability would fall on the user who physically made content available on the Internet. For instance, if a user scanned in or uploaded obscene materials to others on the Internet, they would be held liable. Making users responsible for what they access and transmit simply reemphasizes the notion that the Internet involves users to taking affirmative steps. Instead of holding other third parties or conduits liable, individuals may screen out their own materials and may be held accountable as publishers.

Such a User Rights and Responsibilities Model may seem simplistic on the surface. Although not complete, the model provides a basis on which to build regulation on the Internet. Clearly it incorporates First Amendment characteristics by allowing the user to be his or her own audience and presenter. Neither the government nor a Internet service provider will be solely responsible for determining the content seen or heard. Such a model would make more restrictive attempts like the CDA unnecessary. Moreover, much of the current regulation determining the control over what we access as consumers of traditional media today will not be entirely applicable in this user-controlled environment. Americans would be free to determine what they may write and access in cyberspace.

The potential of the Internet and the National Information Infrastructure (NII) can not be understated. Because this medium is in its early stages and is rapidly growing, we must be careful when constructing laws and regulation. Professor Anne Wells Branscomb sees the possibilities and risks:

> Cyberspaces are populated by people-to-people communication--including person-to-person, some-to-some, and many-to-many. Computer mediated communication offers an environment unlike any heretofore made available, with the potential for genuinely interactive and cooperative innovation. To saddle such promise with an overload of baggage from a bygone era would be tragic.[115]

The CDA brings back memories of an era of fairly heavy-handed regulation. If the CDA is successfully upheld in litigation,[116] we may never be able to know what the Internet and cyberspace had in store for us. On the other hand, placing more emphasis and control in the hands of users can provide us with an opportunity to restore the heart of our First Amendment. The technology may not be our savior, but it is a way to return to the days of when our First Amendment could be taken literally — "Congress shall make no law abridging the freedom of speech."

Conclusion

The Communications Decency Act criminalizes the transmission of obscene and indecent speech on the Internet and other "telecommunications devices." The indecency provision only bars sending or making such speech available to those under 18 years of age. Although a serious attempt at fighting the prevalence of pornography on the Internet, such a provision is overly broad and will more than likely create a "child-safe" content environment. Indecency is protected speech, and any regulation on the behalf of children must be done in the least restrictive manner. Unfortunately, the CDA is unconstitutional, as it neglects the rights of adults to transmit and access indecent materials on the Internet. Although not a protected form of speech, obscenity must be determined by local community standards. But as the Amateur Action case illustrates, complexities arise when the Miller Test is applied in cyberspace. It's now possible that the local community standards of Memphis, Tennessee, may determine obscenity on the entire Internet. The CDA does nothing to rectify this trend because it doesn't clarify what community standards apply to determine obscenity on the Internet. Eventually, the Supreme Court may find such a lowest common denominator national standard to be unconstitutional.

Furthermore, the Exon Amendment also tries to reward those on-line services who give a "good faith" effort to restrict children from indecent speech. Despite its worthy intentions, this provision will actually end up hurting small SYSOPs who may not have the resources to produce such an effort. Therefore, the CDA severely restricts the free speech of adults and smaller SYSOPs.

There are less restrictive means available to regulating the Internet than provided by the Exon Amendment. Software technologies that help parents filter out indecent content are improving. An industry consortium devising a platform for a ratings system should also give parents more control over what their child may access. Factoring in virtual community standards may be one way to refine an outdated Miller Test and allow for more variance than a national obscenity standard. Most importantly, when looking closely at the Internet, one must not forget that the technology allows the user to have unprecedented control over accessing and publishing information. Regulations and legislation that place more control in the hands of the user would help avoid further legal complexities and would bolster the First Amendment. If we are to reach the potential of this exciting new medium, we should reverse the CDA's direction and head toward a more user-friendly environment.

Endnotes

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[1] See Matthew Gray (netGenesis) *Measuring the Growth of the Web June 1993 to June 1995* . The number of web sites grew from 130 to 23,500, indicating large growth of the World Wide Web, part of the Internet.; Network Wizards *Internet Domain Survey, July 1995* . Number of Internet hosts grew from 1,313,000 in January 1993 to 6,642,000 in July 1995.; Peter H. Lewis *Another survey of Internet Users is out, and this one has statistical credibility.* NEW YORK TIMES October 30, 1995 at, D5.; Currently, 37 million people in the U.S. and Canada have access to the Internet (Commercenet Consortium, A.C. Nielsen).

[2] See generally Donald E. Lively *The Information Superhighway: A First Amendment Roadmap* 55 BOSTON COLLEGE L.REV. 1067 (1994); Thomas G. Krattenmaker and L.A. Powe, Jr. *Converging First Amendment Principles for Converging Communications Media* 104 YALE LAW JOUR. 1719 (1995); Jerry Berman and Daniel J. Weitzner *Abundance and User Control: Renewing the Democratic Heart of the First Amendment in the Age of Interactive Media* 104 YALE LAW JOUR 1619 (1995); Allen S. Hammond, IV *Regulating Broadband Communication Networks* 9 YALE JOUR ON REG 181 (1992).

[3] *Focus - Sex in Cyberspace* The MacNeil/Lehrer NewsHour, June 22 1995; Edwin Diamond and Stephen Bates *Law and Order Comes to Cyberspace* TECH REV October, 1995 at 7.

[4] Contained in the Telecommunications Act of 1996 (S.652): 104th Congress.; See also Appendix 1 at the end of this paper for full version of the Communications Decency Act, also referred to as the "Exon Amendment."

[5] Telecommunications Act of 1996 (S. 652): 104th Congress.; see generally Christopher Stern *New Law of the Land* BROADCASTING & CABLE February 5, 1996 at 8, 12.; Mike Mills *Ushering In a New Age of Communications; Clinton Signs Revolutionary Bill Into Law at a Ceremony Packed with Symbolism* WASHINGTON POST February 9, 1996 at C1.

[6] See supra note 4.

[7] See *Focus - Sex in Cyberspace* at supra note 3.

[8] Edmund L. Andrews *A Crusader Against Cyberporn Who Was Once Involved in a Sex Scandal* NEW YORK TIMES, November 27, 1995 at A10.

[9] See Bill Schakner and Dennis B. Roddy *Internet Brouhaha Entangles Researcher* PITTSBURGH POST-GAZETTE July 24, 1995 at A1. The validity and ethics of Rimm's research have been questioned by academics and the industry. Rimm was allegedly able to obtain detailed customer files from BBS operators, including phone numbers and addresses. Rimm also obtained computer usage habits on as many as 89 percent of students. Critics say pornography is limited to less than one-half of 1 percent of all traffic on the computer network and have thus questioned his research methods and conclusions.

[10] See Marty Rimm *Marketing Pornography on the Information Superhighway* 83 GEORGETOWN LAW JOURNAL 1849 (1995). The study claimed that of the top forty Usenet boards accessed by students and staff at CMU nearly 33% focused on sexually explicit imagery. During a four month period, 83.5% of Usenet postings were also sexually explicit. The study was well-publicized in the mainstream press.; See Phillip Elmer Dewitt, Hannah Block, Wendy Cole and Sharon E. Epperson *On A Screen Near You: It's Popular, Pervasive and Surprisingly Perverse According to the First Survey of Online Erotica. And There's No Easy Way to Stamp It Out.* TIME July 3, 1995 at 38-44.

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[11] David Johnston *Use of Computer Network For Child Sex Sets Off Raids* NEW YORK TIMES September 14, 1995 at A1, A18. Justice Department arrested twelve people allegedly involved in distributing child pornography and luring minors into sex while using American Online.

[12] Electronic Frontier Foundation *Constitutional Problems with the Communications Decency Amendment: A Legislative Analysis* June 16, 1995.; 47 U.S.C S 223 (1992).

[13] See Telecommunications Act of 1996 (S.652) note 4.

[14] See page 16 of this paper for a discussion of liability and whether or not on-line services are conduits or publishers. Historically, common carriers must provide non-discriminatory service to customers and have been under heavy regulatory oversight. Meanwhile, Internet service providers and on-line services would like to be classified as common carriers so they are held unliable for content, but don't meet the traditional common carrier qualifications or responsibilities.

[15] See Telecommunications Act of 1996 (S.652) note 4. See also ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996), available on the Internet as of 7/3/96 at http://www.aclu.org/court/cdadec.html. In arguing the case, government attorneys suggested that Congress intended to use "patently offensive" interchangeably with the terms "indecent" and as such, "indecent" was the same as "patently offensive." In his opinion, Judge Buckwalter did not agree that these words were equal in meaning and found fault with what "indecent" actually means. "The CDA does not define the term "indecent," and the FCC has not promulgated regulations defining indecency in the medium of cyberspace. If "indecent" and "patently offensive" were intended to have the same meaning, surely section (a) could have mirrored section (d)'s language."

[16] *Id.*

[17] *Id.*

[18] See page 16 for a discussion on liability, including cases (Liability: Good Faith Hurts First Amendment).

[19] FCC v. Pacifica Foundation 438 U.S. 726 (1978)

[20] See note 12, Electronic Frontier Foundation; See also Robert Corn-Revere *New Age Comstockery: Exon vs the Internet* (Cato Institute Policy Analysis No. 232 June 28, 1995).; Center For Democracy and Technology *CDT Analysis of Senate Passed Communications Decency Act.*; *Administration Concerns Regarding S.652: The Telecommunications Competition and Deregulation Act of 1995* (under Section "IX. First Amendment and Law Enforcement Issues") The Clinton Administration is concerned that "criminalizing speech outside the legal definition of obscenity will be subject to first amendment challenge."; *The Progress Report* June 20, 1995 (a program aired on National Empowerment Television). Speaker of the House, Newt Gingrich (R-GE) opposes the Exon Amendment. Gingrich believes the amendment "is clearly a violation of free speech and it's a violation of the right of adults to communicate with each other. I don't agree with it and I don't think it is a serious way to discuss a serious issue, which is how do you maintain the right of free speech for adults while also protecting children in a medium which is available to both. That's also frankly a problem with television and radio."; see generally Donna A. Galligher *Free Speech On the Line: Modern Technology and the First Amendment* 3 COMMLAW CONSPECTUS 197 (1995).

[21] See supra note 12, Electronic Frontier Foundation (under Section "Adults Cannot Constitutionally be Limited in Public Forums to Reading and Writing only Such Content as is "Safe" for Children").

[22] The first injunction was sought by a coalition led by the ACLU. The ACLU filed the order the same day President Clinton signed the telecommunications bill into law. For ACLU's arguments see

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ACLU *Plaintiffs Motion of Law in Support of a Motion For a Temporary Restraining Order and Preliminary Injunction (re ACLU v. Janet Reno Civ. A.No. 96-963 (E.D.Penn))* available on the I Internet at http://www.aclu.com/; For governments arguments See U.S. Department of Justice (Janet Reno) *Defendant's Opposition to Plaintiffs' Motion for a Temporary Restraining Order (re ACLU v. Janet Reno Civ. A.No. 96-963 (E.D.Penn))* available on the Internet at http://www.aclu.org/; Internet users blacked-out portions of their WWW pages in protest on the day of the signing as well. See Paul Andrews *Cyber-Protest 'Blacks Out' Web Sites – Internet Users Denounce Bill Forbidding 'Indecent' Postings.* SEATTLE TIMES February 8, 1995 at B1.; In a separate attempt, Citizens Internet Empowerment Coalition (CIEC), led by the Center for Democracy and Technology (CDT) and comprised of American Online, American Library Association, Wired Magazine and other heavy online users, filed suit seeking to overturn the CDA on the grounds that it is unconstitutional. See Center for Democracy and Technology *CDT Policy Post* February 26, 1996 Vol 2, No. 7. Complaint and posts are available on the Internet at http:www.cdt.org/.

[23] ACLU, et al. v. Janet Reno. Order. Civ. A. No 96-963 (E.D.Penn) available at http://www/aclu.org/. The order pertains to only the indecency portions of the Communications Decency Act. The judge granted a temporary restraining order enjoining the federal government from prosecuting "indecency" on the Net. See also *Federal Judge Issues Temporary Restraining Order on Indecency Law* WASH TELECOM NEWS February 26, 1996; After the temporary restraining order, the ACLU's coalition and CDT's coalition combined efforts. Peter Lewis *On-line Services Join Indecency Law Suit* NEW YORK TIMES February 26, 1996 at D2.; Arguments began in front of U.S. District Court three-judge panel with a demonstration of the Internet. See Amy Harmon *Landmark Online Decency Hearing Begins* LOS ANGELES TIMES March 22, 1996 at D1; Leslie Miller *Internet Decency Act Goes to Court* USA TODAY March 21, 1996 at 1D.

[24] See ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996) supra note 15. See generally Peter Lewis *Judges Turn Back Law to Regulate Indecency* NEW YORK TIMES June 13, 1996 at A1; Amy Harmon *Court Bars Law Blocking Indecent Material* LOS ANGELES TIMES June 13, 1996 at A1; Christopher Stern *Court Bars Internet Indecency Rule* BROADCASTING & CABLE June 17, 1996; Thomas J. DeLoughry and Jeffrey R. Young *Internet Restrictions Ruled Unconstitutional* CHRONICLE of HIGHER EDUCATION June 21, 1996 at A17-20.

[25] See Telecommunications Act of 1996 (S.652) note 4.; See also *Today's News Update* NEW YORK LAW JOUR July 3, 1996 at 1. The Justice Department filed a direct appeal with the Supreme Court to overturn the panel's decision.

[26] Red Lion Broadcasting Co. v. FCC 395 U.S. 367 (1969).

[27] *Id.* at 390. It should be noted that some believe that the scarcity rationale may not be justifiable given the growth in the alternatives available to the viewer. See generally *The Message in the Medium: The First Amendment on the Information Superhighway* 107 HARVARD LAW REV 1062, 1070-1077.; See also Lively, supra note 2 at 1070-1073.; Syracuse Peace Council v. FCC 867 F.2d 654 (D.C. Cir. 1989), cert. denied 493 U.S. 1019 (1990). The FCC repealed the fairness doctrine in 1987 on the basis that the scarcity rationale was obsolete.

[28] *Red Lion* 395 US 367.

[29] *Pacifica* 438 U.S. 726.

[30] *Id.* at 748. 18 U.S.C Section 1464 (federal law has prohibited the broadcasting of indecent material since the Radio Act of 1927).

[31] *Id.* at 729, 751-55. The seven dirty words in Carlin's monologue are the following: "shit, piss, fuck, cunt, cocksucker, motherfucker and tits."

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[32] *Id.* at 730-33.; See also *In re Citizen's Complaint Against Pacifica Foundation* 56 F.C.C. 2d 94

[33] *Id.* at 750-51.

[34] *Id.* at 748.

[35] *Id.* at 748-49.

[36] *Id* at 749.

[37] *Id.* at 749-50. (Ginsberg v. New York 390 U.S. 629)

[38] See generally Action for Children's Television v FCC (ACT III) 11 F.3d 170 A brief history of the FCC's indecency and "safe harbor" regulation is provided at 172-173.; see also Action for Children's Television v. FCC (ACT III) 58 F.3d 654 (CA DC 1995); see also Action for Children's Television v. FCC. 852 F.2d 1332 (D.C. Cir. 1988) ("ACT I"); Action for Children's Television v. FCC 932 F.2d 1504 (D.C. Cir. 1991, cert. denied 112 S. Ct. 1281 (1992) ("ACT II"); Most recently, the Supreme Court has refused to review the constitutionality of ACT III and the safe harbor ban. See *Supreme Court Will Not Hear Indecent Broadcasting Cases* BNA WASH INSIDER January 10, 1996.

[39] *Id.* see *ACT III* 11 F.3d 173.

[40] *Id.* at 173. The ban does give stations that go off the air at midnight an additional two hours to broadcast indecent material (10 a.m. to midnight).

[41] *Id.* at 177

[42] *Id.* at 180.

[43] *Id.* at 182.

[44] *Id.* at 183.

[45] See ACT II 932 F.2d 1504.

[46] Dial-a-porn business is simply where callers may call a number to receive sexually-oriented prerecorded telephone messages. See Sable Communications of Calif., Inc. v. FCC 492 U.S. 115.; See also Gallagher supra note 20 at 200, 201.

[47] *Id. Sable* at 118. Congress amended 47 USC Section 223 (Communications Act of 1934).

[48] *Id.* at 131.

[49] *Id.* at 122.

[50] *Id.*

[51] Users take more steps to access material on the Internet than in broadcasting. See Gallagher supra note 20 at 205; Current affirmative steps are already available to help control objectionable material from the users standpoint. See Berman and Weitzner supra note 2 at 1619, 1632-1635.

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[52] Denver Area Educational Telecommunications Consortium V. FCC No. 95-124 (June 28, 1996) available at ftp://ftp.cwru.edu/hermes/ascii/95-124.20.filt/.; See generally Chris McConnel *Supreme Court Backs Cable in Access Case* BROADCASTING & CABLE July 1, 1996 at 11.; Linda *Greenhouse High Court Splits on Indecency Law Covering Cable TV* NEW YORK TIMES June 29, 1996 at 1A. Because the decision was split and fragmented, it is difficult to predict the affect it will have on the Courts review of the Communications Decency Act. See Paul M. Barret *Cable Ruling May Portend Internet Curbs* Wall St. Journal July 1, 1996 at B1.; Benjamin Wittes *Supreme Scrutiny; Decency Law Opponents Not Home Free* LEGAL TIMES June 17, 1996 at 10.; Chris McConnel Supreme Court Raises Questions, Offers Few Answers BROADCASTING & CABLE July 8, 1996 at 21. In a separate matter and litigation led by Playboy, a federal judge suspended part of the Telecommunications Act of 1996 requiring cable operators to block audio and video of sexually explicit programming. See *Judge Suspends Rule to Block Programs* LOS ANGELES TIMES March 8, 1996 at D5.

[53] Cruz v. Ferre 755 F.2d 1415 (11th Cir. 1985)

[54] *Id.* at 1420-21.

[55] See generally THOMAS G. KRATTMAKER TELECOMMUNICATIONS LAW AND POLICY (1994) at 385-386.

[56] See Paul Barrett *Challenge to Cable-TV's Restriction to be Heard by Top Court* WALL ST. JOURNAL November 14, 1995 at B10. In the 1992 bill, programming is indecent if it depicts "sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards." The FCC adopted the rules and cable operators challenged. The U.S court of appeals found that cable operators should be able to choose whether or not they want indecent material on public-access channels.; see also Denver Area Educational Television Consortium V. FCC supra note 52.

[57] There are instances when e-mail, Usenet or bulletin board postings/messages will contain material unanticipated by the receiver. Generally on Usenet and bulletin boards a person will access the material because, on the average, they know what type of material will be available. However, unlike broadcasting people have the ability to respond to objectionable material directly by establishing their own rules within the group and by sending notices to the senders of such messages. In broadcasting, people usually can not respond directly because of scarcity. Instead of being able to go on the air immediately, the ability to respond to objectionable material takes a lot longer, and usually involves writing a letter or making a phone call to prompt an FCC hearing before any action will take place.

[58] There are suggestions available to avoid possible prosecution for carrying pornography and other materials which illustrate steps taken by BBS operators. See generally Mike Godwin *Sex and the Single Sysadmin* INTERNET WORLD March/April 1994.

[59] See Center For Democracy and Technology at supra note 20.

[60] See Electronic Frontier Foundation at supra note 20.

[61] See Corn-Revere at supra note 20.

[62] *Id.*

[63] *Id.*

[64] See David Landis *Sex, Laws and Cyberspace/Regulating Porn Does it Compute?* USA TODAY August 9, 1994 at 1D; see also Godwin supra note 58.

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[65] See Andrew Rozmiarek *Smut Blocker* WIRED October, 1995 at 165. SurfWatch is a filtering software program that blocks access to any Web files or sites containing pornographic material. A team of college students search for this material, relay the information to the editors of the software who will update their list of objectionable sites. Editors try to block material that "parents and educators" would not want their 14 year-old to see. Updates can be obtained monthly at an ftp site for $6 a month. Customizing versions of the software, giving parents further content control, won't be available until next year. The filter is not a perfect censoring device, and can be turned off by parents wishing to access adult material.; see also ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996 supra note 15. In its opinion, the three-judge panel goes describes a few of the growing number of software technology and filtering services like Cyber Patrol/Net Blocker Plus that are available in the marketplace.

[66] See T.R. Reid *For Kids' Sake, Parents Should Police the Internet, Not the Government* DAILY RECORD July 5, 1995 at 7.; See also Diamond and Bates supra note 3. Several other companies have developed software filters similar to SurfWatch that are available as free shareware. Companies have also developed "lock-out" Internet accounts that can block out access to certain locations on the Net containing objectionable material for children.; See also ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996) supra note 15.

[67] See Diamond and Bates supra note 3. Groups with words like "alt.sex" and other inappropriate groups are often blocked out.

[68] See *Controlling Cyber-porn may be impossible* SUNDAY GAZETTE MAIL March 26, 1995 at 10B.

[69] See Walter S. Mossberg *Cheaper, Kid-Friendly On-line Service Will Wow PC Users* WALL ST. JOURNAL March 21, 1996 at B1. Mossberg tested the service at home and writes, "Wow is the first mass service that is organically designed to protect children and, at the same time, gives a kid-oriented gateway to the on-line world." Apparently parents are able to set up the service to receive content for both their children and themselves.

[70] See Steve Lohr *Industry Seeks Means to Filter Internet Content* NEW YORK TIMES September 11, 1995 at D1. Members of the group include Microsoft, IBM, Apple Computer, Netscape Communications, AT&T, MCI Communications, America Online, Prodigy, CompuServe and others. The consortium would create standards called Platform for Internet Content Selection (PICS). PICS would include devising a system that could rate materials, allowing parents to select what would be appropriate. "Parents could determine what Internet sites their children could tap into or they could adopt the rated lists that are expected to be supplied by outside groups, possibly ranging from the American Civil Liberties Union to the Christian Coalition."; See also ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996) supra note 15.

[71] See Richard Raysman and Peter Brown *Regulation of On-Line Services* NEW YORK LAW JOUR August 22, 1995 at 3.; H.R. 1978 Internet Freedom and Family Empowerment Act: 104th Congress.; The act was passed as an amendment to the House's version of the communications rewrite. H.R. 1555 Telecommunications Act of 1995: 104th Congress.

[72] See The Child Protection, User Empowerment, and Free Expression In Interactive Media Study Bill (S.714): 104th Congress; See also Edmund L. Andrews *Senate Supports Severe Penalties on Computer Smut* NEW YORK TIMES June 15, 1995 at D1, D6. Sen. Leahy is against the Exon Amendment and brought more than 35,000 petitions from users on the Net in opposition of the CDA. Said Leahy, "None of us are in favor of pornography, but we can accomplish the goal of keeping pornography away from children without imposing a big new layer of government censorship and without destroying the Internet."

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[73] Roth v. United States 354 U.S. 476 (1957); Miller v. California 413 U.S. 15, 23 (1973).

[74] *Miller* 413 U.S. 15 (1973). The Supreme Court created the Miller Test to allow local communities to determine what is obscene.

[75] Stanley v. Georgia 394 U.S. 557 (1969) The Supreme Court sustained an individual's constitutional right to possess obscene material in one's own home.

[76] United States v. Thomas, CR-94-200019-G (W.D. Tenn. Dec. 13, 1994) (conviction and forfeiture order), appeals docketed, no. 94-6648 and no. 94-6649 (6th Cir. Dec 21, 1994). *See also* William S. Byassee *Jurisdiction of Cyberspace: Applying Real World Precedent to the Virtual Community* 30 WAKE FOREST LAW REV 197, 204-11; Jeffrey E. Faucette *The Freedom of Speech at Risk in Cyberspace: Obscenity Doctrine and a Frightened University's Censorship of Sex on the Internet* 44 DUKE LAW JOUR 1155, 1168-69.; *See generally* Gallagher supra note 18 at 202; Anne Wells Branscomb Anonymity, *Autonomy and Accountability: Challenges to the First Amendment in Cyberspaces* 104 YALE LAW JOUR 1639, 1652-53.; Carlin *Meyer Reclaiming Sex from the Pornographers* 83 GEORGETOWN LAW JOUR 1969, 1987; David Loundy *Whose Standards? Whose Community?* CHICAGO DAILY LAW BULLETIN August 1, 1994 at 5.; Mike Godwin *Problems Policing Porn On-line* SAN FRANCISCO EXAMINER August 14, 1994.

[77] *Miller*, 413 U.S. at 31

[78] The ACLU and other groups have appealed the Amateur Action case claiming that applying Memphis, Tennessee standards is unconstitutional. They also contend, among other things, that statute 18 U.S.C. 1465 does not apply because it prohibits the transport of tangible objects, not computer impulses. *See ACLU, Other Groups File Brief Appeal of BBS Operator* ENTERTAINMENT LITIGATION REPORTER August 15, 1995. However, the U.S Court of Appeals (6th Circuit.) affirmed the Thomases convictions for transmitting pornography through a BBS to Tennessee, finding that Thomases controlled access to the BBS by screening potential members and issuing passwords. *See Milpitas Couple's Internet Porn Conviction Upheld* THE RECORDER January 30, 1996 at 1. For entire case See U.S. v. Thomas Nos. 94-6648; 94-669 (6th Cir.) on the WWW at http://www.callaw.com.tommy.html/

[79] *Miller* , 413 U.S. at 15.

[80] See Byassee supra note 76 at 208-09.

[81] *Id.*; *See also Thomas* No. CR-94-20019-G (W.D. Tenn. 1994); see also supra note 76. The Thomases were convicted on 11 counts of transporting obscenity. Robert Thomas was sentenced to three years and one month in prison, while Carleen received a two-and-one half years.

[82] *Id.* Subscribers to the Thomases adult BBS were required to use a credit card and consent. Amateur Action BBS had been operating since 1991.

[83] *Id.* The images included depictions of incest, oral sex, sadism and bestiality. Postal Inspector David H Dirmeyer asked Robert Thomas if he would like to have child pornography sent to him in California. Video tapes were also received in the mail from Thomas to Dirmeyer in Tennessee containing sexually explicit pornography. The case therefore involves two types of obscenity: that which was obtained in the mail, the other which was received electronically by means of the computer.

[84] *Id.* (18 U.S.C. Section 1465.)

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[85] *Id.* (18 U.S.C. Section 1462.)

[86] *Id.* The Thomases were acquitted by the jury of the violating child pornography law. The other indictments included conspiracy (18 U.S.C. Section 371) and forfeiture of the BBS computer equipment (18 U.S.C Section 1467.)

[87] See Loundy supra note 76. Oddly enough the Thomases were previously raided by the San Jose Police Department, but the material on the BBS wasn't sufficient to produce any indictments. Given the earlier raid, the Thomases were surprised by being hauled into a Memphis Court.

[88] See Godwin supra note 76.

[89] *Id.*

[90] *Id.*

[91] *Miller* 413 U.S. 15 (1973).

[92] See Godwin supra note 76; David Loundy *Would he know IT when he downloads IT?* CHICAGO DAILY LAW BULLETIN April 13, 1995 at 6.

[93] *Id.;* See also Byassee supra note 76; Loundy supra note 76.

[94] See Center for Democracy and Technology supra note 20.

[95] *Id.*

[96] See Telecommunications Act of 1996 (s.652) note 4.

[97] Stratton Oakmont, Inc v. Prodigy Services Company 1995 WL 323710 (N.Y. Sup.); Cubby, Inc. v. CompuServe Inc. 776 F. Supp. 135; See Branscomb supra note 76 at 1648-1652; See also Faucette supra note 76 at 1173-74; Flex H. Kent and Lawrence M. Hertz *Establishing a Foothold in Cyberspace* NEW YORK LAW JOURNAL April 21, 1995 at 3.

[98] *Cubby* 776 F. Supp. at 137. Skuttlebut was a service designed to compete directly with Rumorville USA.

[99] *Id.*

[100] *Id.* at 140.

[101] *Stratton* 1995 WL 323710 (N.Y. Sup.)

[102] *Id.* at 1 Stratton Oakmont, Inc is a securities investment banking firm. Apparently, messages on the Money Talk claimed that Stratton's President had committed criminal and fraudulent acts and was "soon to be proven criminal." Another message claimed that Stratton was a "cult of brokers who either lie for a living or get fired."

[103] *Id.* at 3

[104] *Id.* at 4

[105] See Center for Democracy and Technology supra note 20.; Electronic Frontier Foundation supra note 20.

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[106] See supra note 71. Sponsored by Representatives Cox (R-Calif) and Wyden (D-Ore), the Internet Freedom and Family Empowerment Act would leave the primary responsibility of Internet content on users and bar the FCC from regulating the Internet. Among other provisions, the act calls for further development and use of parent control features, like screening filters.; See also supra note 72. Another alternative, sponsored by Senator Leahy (D-Ver) and supported by the Clinton Administration, calls for the Justice Department to study ways to deal with sexually explicit material on the Internet before making recommendations on or passing legislation.

[107] See Daniel Pearl *Compromise Sought on Curbs for Internet* WALL ST. JOURNAL Dec. 4, 1995 at B8. House proposals offered in conference tried to refine the current indecency language and other provisions in the Exon Amendment. Backed by the Christian Coalition, Rep. Hyde's (R.-Ill.) plan would of made it illegal to send or make available any indecent material to kids and hold on-line services liable for such action regardless if they make a "good faith" effort. A less restrictive measure, proposed by Rep. White (R-Wash), would of made it illegal to make or knowingly transmit material that is "harmful to minors." Under this proposal, screening material would not make a service liable as a publisher and would exempt service providers for being responsible for content on parts of the Internet that they don't control. After consideration, the House Conference Committee, adopted and amended White's plan changing the indecency provisions from "harmful to minors" to "indecent" material. ; see also Center for Democracy and Technology *CDT Policy Post number 32* December 6, 1995.; Craig A. Johnson *Congress Deal on Porn Muzzles the Internet* AMERICAN REPORTER December 7, 1995.

[108] See supra note 65.

[109] See supra note 70.

[110] See Mossberg note 69.

[111] *Miller* 413 U.S. 15 (1973).

[112] See Godwin supra note 76; Loundy supra note 76.

[113] *Red Lion* 395 U.S. 367 (1969).

[114] For another similar type user control approach see Berman and Weitzner supra note 2 at 1633-34. Both Berman and Weitzner believe that Internet users have more access to information than ever possible when compared to other mediums. This access factor is a fundamental difference. "Users are not bombarded with one channel or another of programming. The choice of an interactive architecture, with header information, makes effective screening by the recipient possible."

[115] See Branscomb supra note 76 at 1678.

[116] See ACLU v. RENO, Civil Action No. 96-1458 (E.D. Penn, June 11, 1996) supra note 15.; see also supra notes 22, 23 and 25. The ACLU and CDT lead a federal legal challenge against the idencency portions of the CDA and were successful in getting a three-judge panel in Philadelphia to block the CDA.; See also supra note 78. The ACLU made an unsuccessful attempt to appeal the Amateur Action BBS case involving the transmission of obscene materials on the Internet.

APPENDIX I

The following text is the Communications Decency Act (version as appears in Telecommunications Act of 1996). This CDA is available from the Center For Democracy and Technology at info@cdt.org or http://www.cdt.org/.

TITLE V -- BROADCAST OBSCENITY AND VIOLENCE

Subtitle A Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

SEC. 501. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1995".

SEC. 502. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

Section 223 (47 U.S.C. 223) is amended -

(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever --

"(1) in interstate or foreign communications -

"(A) by means of a telecommunications device knowingly -

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of, any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass an other person;

"(B) by means of a telecommunications device knowingly -

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of, any comment, request, suggestion, proposal, image, or other communication which is obscene or indecent knowing that the recipient of the communication is under 18 years of age regard less of whether the maker of such communication placed the call or initiated the communication;

"(C) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communication;

"(D) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass a person at the called number; or

"(E) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication;

"(2) knowingly permits a telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both."; and

(2) by adding at the end the following new sub sections:

"(d) Whoever --

"(1) in interstate or foreign communications knowingly -

"(A) uses an interactive computer service to send to a specific person or persons under 18 years of age, or

"(B) uses any interactive computer service to display in a manner available to a person under 18 years of age,

any comment, request suggestion, proposal, image, or other communication that, in context, depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs, regardless of whether the user of such service placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined under title 18, United States Code, or imprisoned not more than two years, or both.

"(e) In addition to any other defenses available by law:

"(1) No person shall be held to have violated subsection (a) or (d) solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that does not include the creation of the content of the communication.

"(2) The defenses provided by paragraph (1) of this subsection shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate this section, or who knowingly advertises the availability of such communications.

"(3) The defenses provided in paragraph (1) of this subsection shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of this section that is owned or controlled by such person.

"(4) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer (A) having knowledge of such conduct, authorizes or ratifies such conduct, or (B) recklessly disregards such conduct.

"(5) It is a defense to a prosecution under sub section (a) or (d) that a person -

"(A) has taken in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by minors to a communication specified in such subsections, which may involve any appropriate measures to restrict minors from such communications, including any method which is feasible under available technology; or

"(B) has restricted access to such communication by requiring use of a verified credit card, debit account, adult access code, or adult personal identification number.

"(6) The Commission may describe measures which are reasonable, effective, and appropriate to restrict access to prohibited communications under subsection (d). Nothing in this section authorizes the Commission to enforce, or is intended to provide the Commission with the authority to approve, sanction, or permit, the use of such measures. The Commission has no enforcement authority over the failure to utilize such measures. The Commission shall not endorse specific products relating to such measures. The use of such measures shall be admitted as evidence of good faith efforts for purposes of this paragraph in any action arising under subsection (d). Nothing in this section shall be construed to treat interactive computer services as comm. on carriers or telecommunications carriers.

"(f)(1) No cause of action may be brought in any court or administrative agency against any person on account of any activity that is not in violation of any law punishable by criminal or civil penalty, and that the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(2) No State or local government may impose ant liability for commercial activities or actions by commercial entities, nonprofit libraries, or institutions of higher education in connection with an activity or action described in subsection (a)(2) or (d) that is inconsistent with the treatment of those activities or actions under this section: Provided, however, That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights. duties or obligations on the provision of interstate services. nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(g) nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a) or (d) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(h) For purposes of this section

"(1) The use of the term 'telecommunications device' in this section

"(A) shall not impose new obligations on broadcasting station licensees and cable operators covered by obscenity and indecency provisions elsewhere in this .Act; and

"(B) does not include the use of an inter active computer service.

"(2) The term 'interactive computer service' has the meaning provided in section 230(f)(2)

"(3) The term 'access software' means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:

"(A) filter, screen, allow, or disallow content;
"(B) pick, choose, analyze, or digest content; or
"(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

"(4) The term 'institution of higher education' has the meaning provided in section 1201 of the Higher Education Act of 1965 (20 U.S.C. 1141).

"(5) The term 'library means a library eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 355e et seq.).".

SEC. 503. OBSCENE PROGRAMMING ON CABLE TELEVISION,

Section 639 (47 U.S.C. 559) is amended by striking "not more than $10,000" and inserting "under title 18, United States Code,".

SEC. 504. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S.C. 551 et seq.) is amended by adding at the end the following:

"SEC. 640. SCRAMBLING OF, CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) SUBSCRIBER REQUEST. Upon request by a cable service subscriber, a cable operator shall, without charge, fully- scramble or otherwise fully block the audio and video portion of each channel carrying such programming so that one not a subscriber does not receive it.

"(b) DEFINITION. As used in this section, the term 'scramble' means.

to rearrange the content of the signal of the programming so that the program cannot be viewed or heard in an understandable manner.".

SEC. 505. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT. Part IV of title I (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT. In providing sexually explicit adult programming or other programming that is indecent on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

"(b) IMPLEMENTATION. Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such program during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION. As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be viewed or heard in an understandable manner.".

"(b) EFFECTIVE DATE. The amendment made b-y subsection (a) shall take effect 30 days after the date of the enactment of this Act.

SEC. 606. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATION, AND GOVERNMENTAL CHANNELS. Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE. Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity and".

SEC. 507. CLARIFICATION OF CURRENT LAWS REGARDING COMMUNICATION OF OBSCENE MATERIALS THROUGH THE USE OF COMPUTERS.

(a) IMPORTATION OR TRANSPORTATION. Section 1462 of title 18, United States Code, is amended

(1) in the first undesignated paragraph, by inserting "or

interactive computer service (as defined in section 230(f)(2) of the Communications Act of 1934)" after "carrier"; and

(2) in the second undesignated paragraph

(A) by inserting "or receives," after "takes";

(B) by inserting "or interactive computer service (as defined in section 230(f)(2) of the Communications Act of 1934)" after "common carrier"; and

(C) by inserting "or importation" after "carriage".

(b) TRANSPORTATION FOR PURPOSES OF SALE OR DISTRIBUTION.The first undesignated paragraph of section 1465 of title 18, United States Code, is amended -

(1) by striking "transports in" and inserting "transports or travels in, or uses a facility or means of,";

(2) by inserting "or an interactive computer service (as defined in section '230(f)(2) of the Communications Act of 1934) in or affecting such commerce" after "foreign commerce" the first place it appears;

(3) by striking ", or knowingly travels in" and all that follows through "obscene material in inter state or foreign commerce," and inserting "of".

(c) INTERPRETATION. The amendments made by this section are clarifying and shall not be interpreted to limit or repeal any prohibition contained in sections 1462 and 1465 of title 18, United States Code, before such amendment, under the rule established in United States v. Alpers, 338 U.S. 680 (1950).

SEC. 508. COERCION AND ENTICEMENT OF MINORS.

Section 2422 of title 18, United States Code, is amended Ñ

(1) by inserting "(a)" before "Whoever knowingly"; and

(2) by adding at. the end the following

"(b) Whoever, using any facility or means of inter state or foreign commerce, including the mail, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual act for which person may be criminally prosecuted, or attempts to do so shall be fined under this title or imprisoned not more than 10 years, or both.".

SEC. 509. ONLINE FAMILY EMPOWERMENT.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 230. PROTECTION FOR PRIVATE BLOCKING AND SCREENING OF OFFENSIVE MATERIAL

"(a) FINDINGS. The Congress finds the following:

"(1) The rapidly developing array of Internet and other interactive computer services available to individual Americans represent an extraordinary advance in the availability of educational and informational resources to our citizens.

"(2) These services offer users a great degree of control over the information that they receive, as well as the potential for even greater control in the future as technology develops.

"(3) The Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity.

"(4) The Internet and other interactive computer services have flourished, to the benefit of all Americans. with a minimum of government regulation.

"(5) Increasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.

"(b) POLICY. It is the policy of the United States

"(1) to promote the continued development of the Internet and other interactive computer services and other interactive media;

"(2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation;

"(3) to encourage the development of technologies which maximize user control over what in formation is received by individuals, families, and schools who use the Internet and other interactive computer services;

"(4) to remove disincentives for the development and utilization of blocking and filtering technologies that empower parents to restrict their children's access to objectionable or inappropriate online material; and

"(5) to ensure vigorous enforcement of Federal criminal laws to deter and punish trafficking in obscenity, stalking, and harassment by-means of computer.

"(c) PROTECTION FOR 'GOOD SAMARITAN BLOCKING AND SCREENING OF OFFENSIVE MATERIAL.

"(1) TREATMENT OF PUBLISHER OR SPEAKER. No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.

"(2) CIVIL LIABILITY. No provider or user of an interactive computer service shall be held liable on account of

"(A) any- action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or

"(B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).

"(d) EFFECT ON OTHER LAWS.

"(1) NO EFFECT ON CRIMINAL. LAW. Nothing in this section shall be construed to impair the enforcement of section 223 of this Act, chapter 71 (relating to obscenity) or 110 (relating to exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

"(2) NO EFFECT ON INTELLECTUAL PROPERTY LAW. Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

"(3) STATE LAW. Nothing in this section shall be construed to prevent any State from enforcing any State law that is consistent with this section. No cause of action may be brought and no liability may be imposed under any State or local law that is in consistent with this section.

"(4) NO EFFECT ON COMMUNICATIONS PRIVACY LAW. Nothing in this section shall be construed to limit the application of the Electronic Communications Privacy Act of 1986 or any of the amendments made by such Act, or any similar State law.

"(f) DEFINITIONS. As used in this section:

"(1) INTERNET. The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(2) INTERACTIVE COMPUTER SERVICE. The term 'interactive computer service' means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

"(3) INFORMATION CONTENT PROVIDER. The term 'information content provider' means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.

"(4) ACCESS SOFTWARE PROVIDER. The term 'access software provider' means a provider of software (including client or server software), or enabling tools that do any one or more of the following

"(A) filter, screen, allow, or disallow content;
"(B) pick, choose, analyze, or digest content; or
"(C) transmit, receive, display, forward cache, search, subset, organize, reorganize, or translate content.".

NEW TECHNOLOGIES
IN THE
AMERICAN OVAL OFFICE AND THE CANADIAN PRIME MINISTER'S OFFICE

by
Betty Houchin Winfield
and
Michael Antecol

School of Journalism
University of Missouri
Columbia, MO 65211

(206) 325-3602
FAX: 573 882 4823
jourbhw@muccmail.missouri.edu

Paper presented to the Joint Session of the Communication Technology and Policy Divisions, Association for Education in Journalism and Mass Communication Convention, Anaheim, California, August 11, 1996.

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In the past sixty years, the information locus of power has increasingly come into direct conflict with the political locus of power. The result has been that democratic leaders have been unable to exert much direct control over their messages concerning their respective governments and programs, whether a parlimentary or executive type of democracy. In both Canada and the United States, the White House and the Prime Minister's Office (PMO) have historically struggled to get their own viewpoints out to the public about issues and policies.[1] One case in point was the refusal of two of the three largest American television networks to carry President Bill Clinton's first press conference live.[2] Conglomerates, merging and growing larger,[3] have come to monopolize networks and other forms of communication[4], including that information from the White House and the Prime Minister's Office.

The new information highway in these two democracies now appears, however, as the ultimate electronic fulfillment of democratic advances, citizen empowerment, during the twentieth century communications revolution. The internet was hailed as "the most participatory marketplace of mass speech that this country -- and indeed the world -- has yet seen,"[5] on June 12 by the Appeals Court in a ruling against regulation of internet decency, a major issue in the emerging debate over freedom of speech in cyberspace.

Similar to other "hails" and past "ultimate" claims, the new information technologies have been touted as a chance to invigorate democracy by direct citizen involvement and empowerment through a more personalized set of messages. This would allow a move into a future unbeholden to the access issues of the past.[6] With internet and other electronic advances, such as electronic mail, on-line databases, satellite video, faxes, electronic speech files, electronic talk shows via the internet, a new "electronic democracy" could offer a politicians and citizens a chance to obtain and give uninhibited political information, bypassing the current media systems of both countries.

At this time of tremendous use as well as technological changes, this paper will explore how the leaders of two types of democracies, a parliamentary system in Canada and a executive system in the United States, reacted to the new communication technologies. The issue to be answered it is not only which technologies are being used in two types of democracies, but also how the technology can transmit and influence a message. The paper will also explore what the new technologies might mean for the democratic concept of free expression.

As a comparative study between the United States and Canada, an attempt will be made to answer the implications of an expanded access and chief executive use through this question: How do the Canadian Prime Minister and the American President use the new information technologies, namely the World Wide Web, e-mail, facsimile and direct satellite transmissions? By answering this question, this research attempts to discover whether these new communications technologies have allowed more direct access between the country's leaders and their constituents and thereby increased free expression parameters via two-way communication, or whether these new technologies are merely a crown of thorns, a "futurean mirage."[7]

As a qualitative comparative study, the sources used to answer the above question include updates via the internet and contemporary publications and mass media articles as well as personal interviews. As the issues and the information about the technologies are constantly changing as we are writing this paper,[8] the authors will not cover the emerging debate over hate and indecent speech or invasions of privacy or claim to be complete. The findings concerning the examples of technological changes will be placed within the context of the uniqueness of each country and its free expression.

BACKGROUND ON TECHNO-DEMOCRACY AND FREE EXPRESSION

The free expression ideal is that through electronic town halls anyone come become a speaker, publisher, writer, watcher, receiver, reader, and listener. As such, the users would have better information with which to make intelligent choices at election-time. When one in four voting age Americans now have access to internet or an on-line service, the potential appears greater than the actual use. In 1996 the Freedom Forum found that one person in twenty reports visiting any political or government-oriented internet site.[9]

In addition, the ideal is that "truth" would be enhanced by an expanded marketplace of ideas via the new technologies. In fact, votes and polls could be taken immediately on issues and individuals could speak for themselves, not rely on representatives. With an electronic commonwealth, users would regain power lost to the previous print and electronic conglomerates, and could participate and guard again the parochialism of local politics by having discussions on regional and national issues.[10] In democracies, government heads[11], just like other citizens, would be aware of the ability to send and receive messages without the previous mass media intermediaries, and as such would take advantage of the new technologies.[12]

Such open access ideally would mean a diverse range of ideas, without a corporate monopoly of knowledge. The ideal is that freedom of expression would increase in democracies.[13] Previously, media conglomerates argued for free expression increases "de jure," with an overriding purpose to increase their financial stability. The new electronic communications offers the possibility of "de facto" free expression, irrespective of any "de jure" arguments. In other words, free expression, by means of access, will increase in fact rather than merely by law. Gone would be the previous mass media constraints, such as the demands for a manufactured product, a commodity to be bought and sold or withheld from the marketplace, a limited owner-controlled content, a message given or printed on schedule, and advertising or sponsorship directly tied to the content.

As Christopher Lasch pointed out in 1990 the mass media have abandoned their historical role as forums for public debate and have become too willing conduits for information pumped out by publicists.[14] With television's reliance upon 30-second sound bites, the public has had less of a chance with the traditional media to find long-term solutions to current problems. The need was there to involve the citizen in a political dialogue. With the reforms as urged by the late Ithiel de Sola Pool[15] and in revised American Federal Communication Act, media groups are currently vying for economic advantage of the new media types as well as for legal protection. Not emphasized in United States are the possibilities of both political inquiry and political debate.

In the most idealized sense, the new communication technologies increase substansive discourse, reconnect people to the political process and thus expand free expression, regardless of the kind of democracy. The citizen would become more involved in a two-way type of communication which removes the third party media as a filter or gatekeeper. Similar to the early American colonial press or the 1960s underground press, there would be mass communities who would exchance ideas. Even if the information is not entirely reliable, citizens could learn more and thus be able to take a stand for their beliefs. Similar to the neighborhood bar, people could tell stories and trade viewpoints.

Such an expanded information marketplace could influence the traditional media, too. Michael Schudson argues that the new media offer a chance to keep the media professional more honest and forces them to listen to more voices and styles of discourse which they do not control; thus, the new media can contribute to the quality of public discussion.[16]

Scholars disagree on whether the democractic hopes will actually happen so easily. For example, Richard Sclove, executive director of Loka Institute, argues that tolerance will decrease for other viewpoints, no reliance for accuracy, there is no give and take in virtual communities, no compromise because people seek like-thinkers and surround themselves with cyber-neighbors with the same ideology. Such intense use, Sclove says, will erode face-to-face communication and Balkanize democracies by increasing society's divisions. Much of the "chatting" is done anonymously and thus people are not necessarily responsible for their contributions to the marketplaceof ideas. As far as a more involved citzenry, the MIT research team of Hurwitz, Mallery and Bonchek found that the Internet increased participation among those who already participate, and widen the gap between the politically active and politically inactive: "as long as the medium is two-way, it will encourage participation. If it is more like broadcasting, it encourages passivity."[17]

THE LEADERSHIP REACTION

Both the Canadian and American government leaders have been very much aware of the powerful possibilities created by the new dynamic of the cyberspace communication technologies. In particular, they recognize new tools through which it may be able to take control of their own agenda by speaking directly to and with an electorate. In the United States, White House correspondent Ann Compton said in 1994, "What’s different about the Clinton administration is that the president and his young, basically non-Washington, background staff are tying different ways of getting his message across."[18] Such an ability could upset the balance of power through sophisticated communication techniques. Years before, Canadian scholar Harold Innis recognized this possibiity, "Inventions in communication compel realignments in the monopoly or oligopoly of knowledge."[19] Now both governments have a new weapon to increase their power to persuade, and hence, their power to bargain.[20]

In the United States, the Clinton administration has planned a national information infrastructure. As such, the new technologies will not only remain a major growth industry with a large place in the global economy, but will also provide the possibility for the individual citizen to have a more active role in the political process. In two ways does this process relate to the American White House and the Canadian Office of the Prime Minister. First, there would be more ability for the individual citizen to choose and organize information and thus control what government information or messages of a particular interest or need can be received and when. As a co-producer of information, this ability creates a more fluid relationship between the user and sender of information, as pointed out by scholar Patrick Garry.[21] With additional access, the citizen also has a chance to participate directly in the forums of a democracy and thus lessen the public's dependency upon journalists and other intermediaries for information as well as dialogue.

PRECURSOR TECHNOLOGIES AND SATELLITES

The American chief executive has long been using new information technologies in a systematic way to bypass the Washington press corps. For example, President Jimmy Carter, as have his predecessors, wanted to get his messages out unmediated and uncut. In November 1978, Carter's officials set up an actuality service; initially local stations could call a toll-free number and receive voice actualities of the president, vice-president and other administration officials for broadcasting.[22] Although primarily designed for radio, the actualities but could also be used for television voice-overs. Subsequently, the Carter administration introduced a video interview service to supplement the audio-only actualities; a service which John Anthony Maltese called "... a primitive precursor to modern-day satellite hookups."[23] The service would be two-way. Local stations could telephone questions to administration officials who would answer them in the State Departments's TV studio. The videotape containing the interview was then shipped to the station by over-night express-mail.[24]

Subsequently, the Reagan administration continued to bypass the beltway mass media with an even more active audio actuality service. Unlike the Carter staff's timid re-active use, Reagan's staff began calling local stations to offer the actualities, instead of waiting for them to call the toll-free number.[25] More importantly, the Reagan White House became the first to use satellite technology in an effort to update the less efficient mail and telephone system. Such technology had been available since 1958 but its cost remained prohibitive until the 1980s. Similar to the Carter administration, Reagan's team hoped to be better able to bypass the Washington press corps and reach the less critical local media outlets.[26] As a refined difference from the Carter years, in each interview session Reagan would answer questions from several local stations at once using satellite-time provided by the Washington Chamber of Commerce.[27]

During the 1984 primary season, Reagan continued to make extensive use of satellite technologies to visually reach the public beyond D.C. area media gatekeepers. Even though his nomination was secured, Reagan's aides sought to ensure he maintained high television visibility throughout the primary season. Local reporters were allowed and even encouraged to telephone the White House and pose questions to which Reagan responded via satellite.[28] This guaranteed that Reagan would receive less edited coverage on many local stations, much to the chagrin of the Democrats. Although the Washington press corps cried "media manipulation," the White House responded that it simply was "... taking advantage of the changes in the news business -- decentralization spurred by technological advances -- to get their message across in a purer form and to those areas where it counts most."[29]

Perhaps for that reason, during the 1984 election campaign, Democratic candidate Walter Mondale also began to use satellites to get time on local stations, thereby obviating the need to visit every community and go through the national media.[30]

During the 1980s, the American chief executive continued use of satellites after the election set a standard for other politicians. The president and other senior officials were available for interviews via satellite.[31] So too were congressmen and senators to reach local stations within their constituencies without having to leave Washington[32] and to transmit news conferences to blocks of regional stations on matters of local concern.[33]

By the time of the 1988 presidential election, satellite use was of extreme importance, especially since Super Tuesday had grown from three to 20 primaries and/or caucuses. By needing to campaign in so many states at the same time, candidates had to consider alternative means of getting their messages out; satellite feeds achieved this end admirably.[34] However, for many candidates satellite costs were still prohibitive. Those candidates with large financial resources had the advantage. In previous elections, when primaries were staggered, candidates who performed well in early contests could still solicit more contributions for subsequent primaries. Now, a candidate needed the money up front.

President George Bush had been more "... laid back in managing press coverage" during his administration[35], became more aggressive for his upcoming 1992 re-election campaign, according to Carol Matlack. In 1991, he upgraded the TV studio in the old Executive

Office Building and fitted it for satellite access. Local stations became an alternative target. He began using the studio primarily to beam over dozens of interviews to local stations in major markets. These interviews, says Matlack, "... produced some tough questions and revealing replies,"[36] even though local anchors, not being as facile with national issues as the Washington correspondents, were usually friendly. At the same time, the vice president and secretary of labor also used the facility in attempts to influence Congressional decisions by pushing issues ranging from unemployment insurance to the proposed space station. Local stations may have needed these "feeds" as several broadcast bureaus closed their Washington, D.C. bureaus for economic reasons between 1990 and 1992.[37]

During the 1992 presidential campaign, Bush relied extensively on satellite interviews.[38] His decision may have led, in part, to his later decision to cut back substantially on his news conferences.[39] The falling cost of satellite time made such intervews the cornerstone of the White House's regional strategy. When Bush conducted 10 interviews in three Super Tuesday primary states, his cost per hour was less than $1,000.[40] He could thus get his message out immediately to the local regions, rather than depend upon what previously took four days and several hundred thousand dollars. He could target an audience, or as a GOP strategist said, "Someone watching television in Ohio will get a totally different campaign message than someone in California."[41] Bush also used satellites to conduct question-and-answer sessions with Republicans around the country in order to boost the morale of his supporters when his support began to sag.[42]

After announcing his candidacy on October 3, 1991, Arkansas Governor Bill Clinton immediately began using satellites. On that day he conducted 50 interviews with local stations.[43] Richard Mintz of Clinton's press office called satellites a major part of the 1992 campaign strategy,[44] and, in fact, from the time of his nomination until election day, Clinton conducted 750 satellite interviews.[45] Clinton's strategists were also able to convince many local stations to broadcast "town halls" where the Governor would field questions from ordinary citizens.[46] Clinton's press secretary noted the timely advantage of such a technology, "The news cycle has contracted. The faster we get information the faster we win."[47] Charges could be countercharged with local feeds. As Dee Dee Myers said, "Speed kills the response rate."[48]

Such satellite use continued after the inauguration, not just by the President, but also by the First Lady and other administration officials. The President took his 1993 budget case directly to local stations via satellite news conferences.[49] Early in 1993, Hillary Clinton did a "satellite tour" on the health care reform initiative with local television anchors.[50]

Clinton also made use of the previous electronic technologies in the campaign. His forces set up a special toll-free number for radio stations to receive audio actualities of both Clinton and Gore. Between 200 and 500 calls were received per day.[51] During the New Hampshire primary, Clinton supporters gave away 20,000 videotapes of the candidate in an attempt to capture undecided voters.[52] According to Clinton spokesperson Mary Ellen Glynn, the plan was "... to bring Bill Clinton into [voters'] living rooms."[53] The tape featured scenes from the campaign as well as major endorsements.

The 1992 campaign also saw the first substantial use cable television outlets and alternative program outlets on the networks. For example, on cable the candiates made trips in front of the C-Span cameras, visited CNN for interviews, participated in a special hosted by Walter Cronkite on the Discovery Channel, appeared on talk shows such as Larry King Live, and made appearances on MTV.[54] On the more traditional networks, candidates appeared a variety of talk shows and news magazines. For example, Bill Clinton appeared on the "Arsenio Hall Show" and gave an interview to "60 Minutes." Through these outlets the candidates could relay their viewpoints more directly and easily to the voters.[55] Similarly, the election marked the beginning of "infomercials," programs staged to look like news. During the New Hampshire primary race, Senator Tom Harkin and Governor Clinton both ran infomercials. During the actual campaign Ross Perot staged several thirty-minute informercials in which the principle visuals were himself, charts and graphs. Such shows were an additional means to overcome the diminishing air-time on network newscasts.

The public appears to like such direct coverage and the bypassing of traditional journalists. In part this attitude stems from the fact that the public tends to see journalism as self-service rather than as public service.[56] This receptiveness to alternative media is also prevalent because, increasingly, the public is aware that journalists are constantly being hoodwinked by the politicians they are covering.[57] Or, as Katherine Fulton wrote in the Columbia Journalism Review, "The point is that journalists and journalistic institutions are not necessarily better qualified or better positioned to provide these and other basic services than a host of potential competitors."[58] To tap this sentiment, the Repulican National Committee in January 1994 set up GOP-TV. By October, it was broadcasting one hour per week on 300 stations, mostly public-access cable. The Clinton administration made wise use of satellies to target groups, such as business leaders and local anchors, beyond the D.C. area. Two facilities are used: the White House television studio and the facilities in the Old Executive Office Building. The President has had press conferences via satellite to journalists beyond the beltway. In his first year, Clinton had five satellite press conferences and three one-to-one media tours.[59] The Democratic Party has no plans to start a similar television operation.[60]

Such American developments are in striking contrast to the technological lag in Canada. These technologies are only beginning to play a substantial role in Canadian government use and for elections. In the federal parlimentary election of 1993, direct satellite was not so readily available, nor the use so refined. During the election campaign, which eventually brought the Liberal Party to power with Jean Chrétien as prime minister, the

Progressive Conservative Party attempted to use such transmissions in order to to reach its riding associations.[61] The party purchased both the hardware and software but did not invest in technical support needed to run the equipment. Consequently, many mistakes occurred and those blunders became the news story covered by the media, rather than the party's political message. After one week, the party stopped using the technology.[62] Currently, according to David MacInnis, Director of Communications in the PMO for Prime Minister Jean Chrétien, the satellite option has been considered but as of yet there "... just isn't the benefit of payback that they're seeing in the [United] States."[63]

Although the vast majority of Canadian television stations are affiliated with networks that have Ottawa bureaus, unlike their American counterparts, the PMO remains confident that it can still get its viewpoints and spin on events out to the public through interviews conducted by Ottawa corresondents.[64] On a practical level, when former Prime Minister Brian Mulroney attempted to use such transmissions during the early 1990s, TV outlets refused to pick up the feeds. This, of course, may change as direct satellite TV becomes more available in Canada and the need to bypass the Ottawa bureaus increases.

THE ELECTRONIC HIGHWAY: THE WEB, E-MAIL AND FAX

The Reagan White House was also the first to use electronic mail although initially it was used primarily for document access and dispersal. In 1984, the Office of Media Relations began placing presidential and vice-presidential press releases, briefings and other materials on its electronic White House News Service, reachable through ITT Dialcom. This service was accessible to anyone with a modem willing to pay a one-time $50 subscription fee.[65] Such electronic press releases were also used by the Republicans during the 1988 primary season.[66]

E-mail and the World Wide Web became important tools for document access during the 1992 presidential election campaign. Clinton's daily schedule and campaign position papers were available on-line from commerical networks, such as Prodigy and CompuServe.[67] Documents have also been available through Anerica, Online, MCI mail as well as academic sites. The University of North Carolina set up a "virtual presidential library" on line.[68] Clinton's staff also posted campaign documents on NETNEWS which made it possible to reach upwards of 1 million internet users.[69] The service was interactive for both parties. Bush and Clinton had their staff participate in special "close-up forums" on Prodigy; users wrote in questions and staffers answered a representative sample.[70]

Under President Clinton, computer-based electronic communication has expanded considerably. In fact, he has relied on the new technologies to some extent more than the old. The president and vice president have been pushing for the nation to be electronically connected via the "information highway." Whereas citizens could communicate with candidate Clinton via e-mail, clinton-info@campaign92.org, and circumvented the national media and receive press releases, position papers on particular topics or foreign policy, the economic, social policy and speeches, afterwards they could so the same with President Clinton, president@whitehouse.gov.[71] Special pages on the World Wide Web have also been set up.[72] In addition to their specific content, the pages provide e-mail access to the president and other officials, access to other government services and departments through "hotlink" connections. Document access is also possible: more than 3,000 White House documents can be viewed or downloaded.[73] Thus, the service is interactive for citizen mail and views. The White House received over 250,000 e-mail messages in the first year of its administration.[74] By 1994, mail was typically answered within a week using one of 300 form letters expressive of the views and policies of the administration.[75]

Any searcher of the electronic highway can retrieve hundreds of menu items if they search through "politics economics," "clinton" or "white house" either through the internet or the World Wide Web. The "Web" dominates; according to World Wide Web Yahoo! Index, by late 1995, there were 1500 political and government home pages. Many of the items, though, are duplicates and can be traced back to their original sources; usually the Office of the Press Secretary (OPS) and the online Federal Register. OPS distributes documents to a variety of sources: the internet, LISTSERVs and USNET groups, and commercial services such as CompuServe. According to Greg Notess, however, the easiest way to search for presidential documents is still through the internet gophers: the Counterpoint

Gopher to the Federal Register database, the LC gopher for large governmental documents, and the University of North Carolina or Texas A&M gophers for press releases and other small documents. "However," he notes, "To the best of my knowledge, no site has gathered all of the White House documents [or even pointers to them] in one internet location. Despite what some on the net might say, the print Weekly Compilation of Presidential Documents still manages to do a more job of gathering all of Clinton's documents in one place."[76]

For political information, the Web dominates, according to World Wide Web Yahoo! Index. By late 1995, there were 1,500 political and governmental home pages, some of which were spoofs.[77] The MIT team, who created the White House internet sites and mailing lists in 1992, in their tracking of how people use the political documents, found that by 1994, the information seekers were primarily college graduates and holders of advanced degrees, 80 percent were male, 25 percent campaigned or lobbied for a living, and the rest were with universities or government agencies. By 1996, the gender gap had been closed and a more varied popularion accessed political information.[78] Freedom Forum Media Studies Center found that those who visited the political sites were nuews junkies, who also watched CNN and the Sunday morning public affairs programs, listened to more radio, read more news magazines and books about politics than the average voter.[79]

The White House is continually adding new apsects to the network. They started a Civic Practice Network as part of Vice-

President Albert Gore's "reinventing Government" campaign. The network pushes stories of everyday problem solving.[80] In October 1995, "Whitehouse for Kids" began, found under www:\\whitehouse.gov.

The two-way system is weak due to lack of personnel. The administration only has four or five people working on the web at any one time and, according to Mark Bartholomew, Systems Integrater, does not have the time to interact with the user. Originally, the MIT team were able to put on line publications and tracked the weekly count of hits. Currently, there is a tracking system, taken in house, for publication requests.[81]

For the 1996 presidential campaign, every major candidate set up a Web site by the end of 1995. The White House was first, October 1994. Former Governor Lamar Alexander, the first Republican candidate to open a home page, May 1, 1995, had the "first cyber-announcement in history" on American Online chat line, February 18, 1995. Web sites are inexpensive, according to Campaign '96 Briefing, $8,000 for Senator Phil Graham's home page.[82]

The FAX, the facsimile machine, played a significant role in the 1992 campaign as well. Before 1984, the quickest way to get the required information sent was though a courier service.[83] But by 1992, fax broadcasting was in widespread use because of it allowed up to 2,200 media outlets to be reached at one time.[84] It also has certain advantages over e-mail, namely, the ability to transmit graphics and bold and/or italic type.[85] Former Governor of California Jerry Brown became the first presidential candidate to announce his decision to run by FAX and even Newsweek magazine noted, "He faxed his hat into the ring."[86] During the campaign, Bush strategist Mary Matalin would send off "Clinton Lie-a-Day" FAX releases to the media while James Carville, her soon-to-be husband and Clinton strategist, would answer in kind.[87] Similarly, the Clinton staff faxed their response to George Bush's convention acceptance speech to major American media units while the GOP nominee was still speaking.[88] The Bush camp did the same to Clinton.[89]

The FAX is a important part of White House communications today. For example, it was used successfully by Clinton's inauguration staff especially in arranging the press credentials for the various balls.[90] WIN-FAX servers have now been installed in the White House to allow 800-callers to order facsimile copies of documents[91] as well as communicate with the President.

Executive use of these new information technologies in Canada has lagged behind the United States. Unsurprisingly, the information highway has not been used to any great extent in any previous Canadian federal elections. However, during 1993 election, the Liberals did use e-mail to communicate with their riding associations. The party did not attempt to communicate through e-mail to the traditional media because those outlets have been slow to adopt e-mail. According to MacInnis, in 1993 the vast majority of outlets still did not have e-mail access. Interestingly enough, in early 1996, MacInnis still only had about 40 such e-mail addresses.[92] Neither the Reform nor New Democratic parties made any use of the technologies in the 1993 election.

Since winning office, Prime Minster Chrétien has been criticized for taking so long so get on-line, especially since several provincial premiers had already done so.[93] In response, the PMO stated that the delay was necessary in order to make sure the proper systems were in place. Further, MacInnis said that up until this point there was insufficient demand. There are only approximately 1.8 million computer users in Canada with only 30 percent of them having internet access. Although MacInnis recognizes that such access "... hasn't been something Canadians have been asking for," he acknowledges that increasing demand for access to both the PMO and Members of Parliament (MPs) became manifest within 1995.[94]

Currently, the Prime Minister has had his own World Wide Web home-page with basic service beginning December 14, 1995.[95] It contains speeches, one-page distillations of news of the day with a governmental spin put on it. Plans are also being made for the addition of a "comment form," an audio/visual component, and a tie-in with the National Archives for the inclusion on biographies of all past prime ministers. Two youth pages are also being planned; one for pre-teen and one teen levels, with a plan to tie this in with School-Net, a nationwide internet hook-up for all Canadian schools.[96] Other suggestions will be phased-in in monthly interval, according to McInnis.

The number hits varies depending on events. The prime minister's web page is currently receiving an average of about 300 hits day. Yet, during a recent cabinet shuffle there were 4,500 hits.[97] Likewise, other government departments have recently begun setting up their own web pages. For example, the environment ministry, under the leadership of Minister of the Environment and Deputy Prime Minister Sheila Copps, set up its own web page with direct e-mail access. The Green Lane, as the page is referred, began operating in 1995.[98]

By late spring 1996, the Prime Minister is expected to begin accepting electronic mail. Unlike the American President, the Prime Minister does not sign most of the paper-mail he receives; correspondence officers answer or the mail is slotted to appropriate ministers. The PMO is attempting to implement the same routing pattern with respect to e-mail through the use of "key word" sorting system.[99] Once in place, the PMO expects to be receiving about 200 e-mail letters per day during 1996. This number should be fairly accurate since 465 CompuServe subscribers posed questions to the Prime Minister during a special on-line session.[100] That number should decline when the prime minister's presence becomes permanent.

In addition, the current internal-only e-mail system of the House of Commons is being expanded so that all MPs will be able to receive and send mail to their constituents.[101] This system is also expected to be on-line by late spring 1996. Some Liberal MPs, however, have not waited for its implementation. These "hard-core users," as MacInnis referred to them, have signed onto private companies at their own expense.[102]

BYPASSING THE MEDIA?

In the United States, the increasing primacy satellite transmissions and the electronic highway has tended to increase the leverage of local newscasts at the expense of the "hegemony" of network TV and national print media,[103] especially during presidential elections. In the last presidential campaign, 44 per cent of 115 local stations in one survey had conducted interviews with candidates via satellite; an increase from the 20 per cent in 1988.[104] According to Phyllis Kaniss of the Annenberg School of Communication,

> Local TV may have wielded greater influence with voters than the networks, newspapers and maybe even talk shows. And Bill Clinton's victory was due in large part to knowing how to use the local media to send his message of change. ... Certainly locals played an important role in taking the election way from the national media's focus on sex and strategy and bringing it back to the concerns of ordinary people."[105]

In this way, to a greater or lesser degree, Clinton was able to bypass the Washington press corps. Once elected, his administration has put the same concentration on developing access to the information highway.[106] According to Wired:

> White House staffers tend to view the Net as a ballast against the out-of-control mass media and Washington press corps. And they believe the public is sympathetic -- that there is much anger against the media as there is against the government. ... By holding "town meetings" and by establishing a growing presence on the Net, the Clinton administration is making a pitched effort to perform an end run around the media.[107]

The success or failure of this policy is still out when Clinton faces the voters again. At that time, he may face some harsh criticism from the mainstream media who feel alienated due to the president's obvious attempts to bypass them. Their alienation is compounded by the fact that those outlets devoted 41 per cent more space to Clinton in his first year in office than it did to Bush's in his. Also their editorials tended to be favorable to the president; they came down on his side on 10 of the 12 leading issues in 1993.[108]

In Canada, however, the PMO has not been able to use the new technologies to bypass the traditional media as easily for various reasons, including technological ability. MacInnis said, "I don't think we'll be able to ever totally bypass them."[109] In any event, MacInnis argued, voters recognize that they are always getting a spin of some sort. Nevertheless, he acknowledges that the PMO has been somewhat better able to get its messages across through these new technologies than solely through the traditional print and broadcast media outlets because constituents can go directly to the source. He regards this non-complete bypassing ability as beneficial and recognizes that in the longer term the technologies may provide a window, "... at this point the technology is not being fully utilized for message delivery ... we haven't exploited the technology by any means."[110] He expects the PMO to continually attempt to upgrade its systems in order to better communicate with constituents. However, he argues that the new media window will never grow to the point that the traditional media are not required.

In fact, the introduction of the new information technologies has not altered the access of traditional media members to the

Prime Minister. The press-government situation is not the same as the beltway coverage of the American president. The Prime Minister generally has held news conferences once every three to four weeks while he was in Ottawa.[111] The same is true with interviews: he usually gave one with a specific outlet about once a month. Also the Prime Minister appears regularly in Question Period and usually "scrums" once a week with reporters.[112] Since the introduction of the web page, those numbers have not changed. MacInnis does not expect them to change with the introduction of e-mail. In Canada, the traditional and new media are achieving different ends; currently, one is not negating the other.

THE FUTURE

The political power of the new information technologies can be seen most clearly during elections as shown in recent American congressional campaigns and the current presidential campaign.[113] During the primary season, all the Repubican candidates had web pages and internet access.[114] It can be expected that e-mail, web pages, fcsimile broadcasting and satellite use will be important not only in the presidential election but in the congressional and senate races as well.[115] The technologies can be cost-effective, an efficient use of a candidate's time, a means to target a particular audience and also kill a response rate.

In Canada, all political parties plan to make some use of the technologies in the upcoming federal election, probably to be held sometime in late 1996 or 1997.[116] Despite the expense, MacInnis acknowledges that the information highway will be an important tool to get out less-filtered messages.[117] The Liberals are "significantly out in front of everybody else"[118] in this respect: as of February 1996, the only other party with e-mail and a web page was the Reform Party. Neither the Progressive Conservative Party nor the New Democratic Party had e-mail or a web pages while the Bloq Quebecois only had a web page.[119] Still, MacInnis expects all to be on-line by the election.[120]

With the explosion of new technologies, the new media might increase citizens' power.[121] Certainly, the American government is promoting the development of a National Information Infrastructure (NII) of communication networks involving computers, television, telephones and satellies. An American national task force, the Information Infrastructure Task Force, considers areas where the NII and the public intrest intersect, such as health care. [122] As it now stands, the citizen can access documents and request publications easier with the Web or e-mail. With greater computer literacy, with computers in libraries and schools, with availability to all citizens, alternative views could become available, indeed that being the ideal electronic commonwealth. Although the internet could become a place where nasty and dirty campaigning abounds, where, for example, tapes and pictures of Jennifer Flowers could be put, where the private medical files of candidates could be opened to the public, and where fact verification would be an anomaly, cyberdemocracy could still be of enduring value.[123]

Electronic town meetings could restore participation in government as Canadians did concerning the recent cabinet shuffle. Already a new form of grassroots activism appears to be eroding the "static foundations" of the political establishment.[124] But again, danger looms in its very benefits, for intense public pressure, in the form an electronic barrage, could lead to the enactment of suspicious laws. Similarly, the driving forces behind these movements tend to be private organizations that are pursuing their own private agendas.[125] Only recently has there been much effort allocated to the study of this high-tech electronic advocacy.[126]

While the Canadian Prime Minister's Office appears to lag behind the American Oval Office in the use of these new technologies, the need may not have been there. Already in place for the Canadian prime minister is a Question Period in that parlimentary system, as well as press conferences at least monthly and interviews. The election process is also different from the United States; there are no primaries or caucuses. Further, prime minsters have not felt the pressing need to bypass the national network and print correspondents to get their views out to the Canadian public.

Lastly, the electronic information system was developed differently in these two democracies. In Canada, the nonprofit interests were able to direct policy on radio before the commercial interests had become entrenched. That tradition is still present in the form of the Canadian Broadcasting Corporation.

How quickly the PMO implements these new technologies and how much more the presidential candidates and the president will rely on them is still uncharted. Democratic leaders want to get out their messages, uninhibited. Whether they really want to get a two-way message if not quite there yet. These new technologies face the issues of privacy, security, copyright, computer crimes, control and censorship efforts. With the addition of an electronic grassroots democracy, how do you police the marketplace of ideas when so many markets are there to monitor? In responding to Congress's efforts to police indecency, a U.S. Appeals Court ruled it impossible. At this time, "the medium is still the message," to quote Canadian Marshall McLuhan, or as Clinton's former press secretary Dee Dee Myers said, "High tech communication grew to be more than just the way of delivering the message. It became part of the message."[127]

ENDNOTES

1.For example, see John Tebbel and Sarah Miles Watts, The Press and the Presidency: From George Washington to Ronald Reagan (New York: Oxford University Press, 1985) and James Pollard, The Presidents and the Press (New York: Macmillan, 1947).

2.W. Lance Bennett, News, the Politics of Illusion, 3rd ed. (White Plains, N.Y.: Longman Publishers, 1996), 102.

3.In Canada, see the Report of the Royal Commission on Newspapers, 1981 (Ottawa: Minister of Supply and Services, 1981). The commission was known as the Kent Commission. In the United States, see Ben Bagdikian, The Media Monopoly, 4th ed. (Boston: Beacon Press, 1992) and Leo Bogart, Commercial Culture (New York: Oxford University Press, 1995).

4.A condition which is quite appalling if the gatekeeper analysis is taken seriously.

5. "Judges Turn Back Law to Regulate Internet Decency," New York Times, 13 June 1996, A1, A18.

6.However, as James W. Carey wrote in Communication as Culture: Essays on Media and Society (Boston: Unwin Hyman, Inc., 1989), 116, the prophesy that technology would be a panacea has not lived up to its reality: "Such a faith, however, contrasts sharply with developments in electricity and electronics in recent decades. The manifest consequences of electricity are clearly in opposition to a decentralized, organic, harmonious order."

7.Carey, Communication as Culture, 196.

8.For example of such changes see: See Peter H. Lewis, "Pioneers of Cyberspace Move into Wider Arena," New York Times, 1 April 1996. With a large percentage of the population of the United States on the net many electronic pionners have argued that "cyberspace" is dead.

9. n.a. "Cybercampaigns Preach to the Choir," in The Media and Campaign '96 Briefing (April 1996): 8.

10.Richard Davis, Politics and the Media (Englewood Cliffs, N.J.: Prentice Hall, 1994), 408-409.

11.The Canadian Prime Minister is not called the "chief executive," as is the American President.

12.While the current free expression cyberspace issue in the United States concerns pornography on-line, a form of objectionable content-based review with the new American Decency Act raising the possibility of government restrictions, yet, access to information has been but another free expression legal struggle in both countries.

13.Free expression is defined as Section 2(b) of the Canadian Charter of Rights (1992) and the First Amendment clauses (1791) concerning free speech and free press in the United States Constitution. In Canada, Section 2, "Everyone has the following fundamental freedoms: ... freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication." The free expression clauses in the First Amendment of the American Constitution include the phrases: "Congress shall make no law ... abridging freedom of speech, or of the press..."

14.Christopher Lasch, "Journalism, Publicity, and the Lost Art of Argument," Gannett Center Journal (Spring 1990): 311-48.

15.Ithiel de Sola Pool, Technologies of Freedom: On Free Speech in An Electronic Age (Cambridge: Belkanp Press, 1983).

16. Michael Schudson, "The Limits of Teledemocracy," The American Prospect 11 (Fall 1992): 41-45.

17. Lisa Guernsey, "The Electronic Soapbox," The Chronciles of Higher Education (May 3, 1996): A29, A32.

18. n.a. "Stranded Outside the Inner Sanctum: A Conversation with the White House Press Corps," Media Studies Journal 8:2 (Spring 1994): 164.

19.Harold Innis, "Introduction," Empire and Communications (Toronto: University of Toronto Press, 1950).

20.Richard Neustadt, Presidential Power and the Modern Presidents (New York: The Free Press, 1990), 4 and 32. To paraphrase Plutarch: when Cicero had finished speaking the people said "how well he spoke" but when Demosthenes had finished speaking they said "let us march against Philip."

21.Patrick M. Garry, Scrambling for Protection: The New Media and the First Amendment (Pittsburg: University of Pittsburg Press, 1994), 50.

22.John Anthony Maltese, Spin Control: The White House Office of Communications and the Management of Presidential News (North Carolina: The University of North Carolina Press, 1992), 155-58.

23.Ibid., 158-160.

24.Ibid.

25.Ibid.

26.Norman D. Sandler, "White House Public Relations Machinery in High-Gear for Election," United Press International, 10 August 1984.

27.Maltese, Spin Control, 200.

28.Norman Sandler, "White House Public Relations Machinery," United Press International, 10 August 1984.

29.Ibid.

30.Robin Toner, "Using Satellites to Reach Voters in the Out There," New York Times, 16 December 1985 (Late City Final Edition), B-10.

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33.Ibid.

34.Mary T. Schmich, "Super Tuesday Changes Campaign Strategies," Chicago Tribune, 16 August 1987, C-27.

35.Carol Matlack, "Target Television," The National Journal 24(5), 1 February 1992, 263.

36.Ibid.

37.Ibid.

38.Don Kowet, "High-Flown Stump Oratory; Candidates Step Up Use of Satellites Faxes, and Some Play Video Games," Washington Post, 9 March 1992, D-1 and Kenneth T. Walsh, "Reach Out and Crush Someone," U.S. News and World Report, 9 March 1992, 24.

39.Walsh, "Reach Out and Crush Someone," 24. At least this was the perception: Doug Hallonen, "SNG Gives Bush Direct Access to Station," Electronic Media, 6 April 1992, 31.

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84.Ibid.

85.Fleming Meeks, "We Want to be Intrusive," Forbes, 18 December 1995, 170

86.Kowet, "High-Flown Stump Oratory," D-1. This strategy was used by Senator Bob Kerry who faxed stations all over the country after the Department of Labor had accused him and his restaurant chain of violating the child labor laws.

87.Meeks, "We Want to be Intrusive," 170.

88.Myers, "Perspectives," 181-187.

89."Changing the 'Fax'," 8.

90.Judy Morris, "Clinton's Inauguration Staff Relies on Enhanced Fax Response Technology," Telemarketting, 11(12), 52.

91.Rapaport, "High Wire Act," 72.

92.MacInnis Interview.

93.Already, the following provincial premiers have web pages: Frank McKenna of New Brunswick, John Savage of Nova Scotia, and Ralph Klein of Alberta: "Chrétien to be on Internet by Summer," Canadian Press Newswire, 19 April 1995.

94.MacInnis Interview.

95.On the Netscape server. Address: canada.gc.ca/pm.htm. The program was drafted by the Public Works department. The graphics work was consulted out.

96.According to MacInnis, this is a uniquely Canadian endeavor.

97.These are conservative estimates because they only include the "front door" hits, not the overall number of hits.

98."Environment Canada Announces opening of Green Lane in Ontario," Canada News Wire, 27 March 1997 and "BC Green Lane will Give Citizens Access to Officials, Information," World Environment Report, 21(13). The address in British Columbia: http://www.pwc.bc.doe.ca. The address in Ontario: http://www.cciw.ca/green-lane/intro.html.

99.This is the main reason, MacInnis, says, that a proper sorting system be in place. The PMO wants to be able to handle all that comes no matter what the number. The "hits" are the "best estimate" based on extrapolations from the response at the PMO and in the provinces.

100.Warren Caragata, "Chrétien On-Line," Maclean's, 29 May 1995, 32.

101.There are currently 295 MPs, 176 being Liberals. Of those Liberal MPs, about 165 use the internal system frequently for government business. The same is probably true for members of the other parties. This system has even won an award: the Gold Leaf Award for a 60 percent reduction in paper use: see Jill Vardy, "House of Commons Wins Award For Paperless Office," Financial Post, 11 November 1995, 32.

102.MacInnis Interview, February 13, 1996.

103.Walsh, et al., "The Media Battle," 49.

104.David Lightman, "Local Media, National Message," A-1.

105.Ibid.

106.In order achieve this goal, the entire White House had to be re-wired.

107."Power to the People," 88.

108.Robert U. Brown, "Clinton'Press," Editor and Publisher, 2 July 1994, 8

109.MacInnis Interview.

110.Ibid.

111.Generally, the Prime Minister speaks on the big issues in broad paint-strokes at these news conferences; he leaves the particulars to his ministers. When he is abroad on official business he makes himself available to the media on a daily basis.

112.A scrum occurs when the media pounce on parliamentarians in the lobby of the House of Commons after they leave the chamber.

113.In 1994, the use of the information highway to defeat Speaker of the U.S. House Tom Foley in his bid for re-election. His opponents made exceptional use of the internet in their "De-Foley-Ate" campaign. Ann Reilly Dowd, "The Net's Surprising Swing to the Right; Conservative Republicans Are Big Online," Fortune, 10 July 1995, 113.

114.See for example, Dan Balz, "Taking the Race to Cyberspace: GOP Presidential Candidates Tangle on the Web," Washington Post, 29 May 1995, A-11.

115.For example, Senate Minority Leader Tom Daschle has set up a special committee to help senators to get their messages onto the internet, cable TV and talk-radio: Dowd, "The Net's Surprising Swing," 113.

116.MacInnis interview.

117.In part this is because all parties receive money, based on their number of seats in the House of Commons, for a "Caucus Research Bureau." These bureaus use a part of that money explicitly for information technologies. Still, the cost remains an important consideration in Canada; especially in an era of restraint. He pointed out that there are different considerations in the U.S. due to the system of primaries which allows for the collection of vast sums of money.

118.MacInnis interview.

119.But it has scope decreased since end of referendum.

120.MacInnis believes this will be the case despite the limited use of these technologies during the recent referendum on Quebec separation. Although both the federalists and separatists had web pages, they were basic sites without much information. "They were not a factor in the result at all," he said.

121.See, for example. Doris A. Graber, "The 'New' Media and Politics: What Does the Future Hold," PS: Political Science & Politics, March 1996, 33-36.

122. Greg Simon, Chief Domestic Policy Adviser to the Office of the Vice-President, letter to Betty H. Winfield, May 24, 1996.

123.Michael Tackett, "Candidates Go On-Line to Net Votes," Chicago Tribune, 25 May 1995, 1.

124.Rick Henderson, "Cyberdemocracy: Infomedia and Politics," Reason, 26(11), 43.

125.Ibid.

126. Darryl M. West and Richard Francis, "Electronic Advocacy: Interest Groups and Public Policy Making," PS: Political Science & Politics, March 1996, 25-29 for examples. See too "MIT Researchers Examine Use of White House Web Site," The Chronicles of Higher Education, 3 May 1996, A 33.

127.Myers, "Perspectives," 181-187.

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The Fair Use of Video Clips in Electronic Publications on the World Wide Web

Quint B. Randle
Michigan State University
1603 Forest Hills Dr.
Okemos, MI 48864
(517) 347-0068
qrandle@aol.com

Presented to the Communication Technology & Policy Division Association
for Education in Journalism and Mass Communication
August 13, 1996 — Anaheim, Calif.

ABSTRACT

The Fair Use of Video Clips in Electronic Publications on the World Wide Web

This paper expands on existing literature by addressing copyright fair use issues faced by magazine and newspaper publishers as they take advantage of the new media technologies offered by the World Wide Web. More specifically, conventional magazine publishers can now act more like broadcasters by including audio and video clips in their online publications. How might copyright statute, case law and the traditions of print and electronic media be applied to the fair use of video clips on World Wide Web publications? The authors uses several hypothetical cases to illustrate and examine these issues.

Introduction

Conventional publishers and broadcasters alike are clamoring to become part of the World Wide Web, a recent offspring of the Internet that provides interactive browsing of text, photographs, sound and video. "Hardly a week goes by without at least one new newspaper or magazine or television network pushing its stake into the ground and raising an ONLINE banner over the home office" (Jackson, 1995, p. 60). While some media organizations are seeking to charge for their online services (Wiggins, 1995), the purpose of most of these web sites is to attract potential readers and viewers to conventional publications and broadcasts (Ferguson, 1995; Carmody, 1993).

As with any new medium, there are a number of serious issues regarding delivery time, intellectual property rights, access and costs that are yet to be resolved. These issues are being addressed through National Information Infrastructure legislation recommendations as well as advances in technology. Meanwhile, the World Wide Web — or what it may become — is being hailed as a grand convergence of all media formats: text, photographs, audio and video available in an on-demand environment.

Some Copyright Issues

Recently, freelance writers have attempted to assert their authorship rights in terms of secondary electronic publications such a CD ROMS, web sites and electronic databases (Schnuer, 1995A). At the same time magazine and newspaper publishers are aggressively confirming their copyright privileges regarding fair use of information and visuals they have published electronically (Schnuer, 1995B). These intellectual property issues have received attention in consumer, trade, legal and scholarly circles (Horsman, 1995; Belsie, 1995; Oberman & Lloyd, 1995; Jackson, 1995).

Research Question

Departing from the general overview approach of recent AEJMC presentations (Brill & Packard, 1995; Atwood-Gailey, 1995), this paper will expand the literature by addressing copyright fair use issues faced by magazine and newspaper publishers as they take advantage of the new media technologies offered by the World Wide Web. More specifically, conventional magazine publishers can now act more like broadcasters, by including audio and video clips in their online publications. How might copyright statute, case law and the traditions of print and electronic media be applied to the use of video clips on World Wide Web publications?

Promise of Technology

For existing publishers of conventional magazines and newspapers, publishing on the World Wide Web offers a number of opportunities. First of all, the potential audience is already in the millions, throughout the United States and the world. Secondly, electronic publishing offers multimedia capabilities: the combination of video, audio, still images and text that can provide more entertaining and higher quality communications. For the start-up publisher, all of the above are available, plus the startup investment for an electronic "'zine" is extremely low compared to the cost of launching a conventional printed publication. An incredible distribution system is developing that is available to almost anyone for just a few thousand dollars.

For example, suppose that *Family Handyman* magazine wanted to show its readers how to use a new countersink screwdriver technique. In the past, this would have required tens of thousands of dollars in production, editing and the creation of a TV show or home video release along with the ensuing distribution. Today, using a home video camera, an editor can shoot 30 seconds of a demonstration, transfer it into a PC, edit and distribute it to a potential world-wide audience for an up front investment of less than $5,000 (Jackson, 1995). And that's for the first clip. Additional video demonstrations can cost less than a few hundred dollars each.

These "video clip quotes" (so-called because of their rudimentary nature) can be combined with text for an instructional and entertaining presentation. This is what the coming of multimedia is all about: "Rather than transmitting information in different forms, such as analog signals and electromagnetic waves, the superhighway will carry all information, from voice to video, in the form of digital bits" ("Message in the Medium," 1994, p. 1067). While the current state of video on the internet is simplistic and slow, it is only going to get faster, less expensive and crisper as full-bandwidth networks are implemented.

As opposed to high resolution, broadcast-quality video, these downloadable video clips are basically thumbnail versions of the original. While the clip may be fabricated from original video images, it is actually just a series of frames strung together with enough movement to "get the point across." At the current state of technology, full motion video images take up a great deal of computer memory and transfer at slow speeds. This will be the case for some time. In the context of a web publication, these video clips last from three to 30 seconds and generally provide "video illustration" for an article.

Potential Problems

The technology of the World Wide Web is fostering free speech and social comment throughout the globe. The ability to combine text and visuals in this environment certainly has exciting implications for electronic publishers. But there are a number of areas of concern regarding copyright law. One of these issues is the fair use of copyrighted material. This emerges an an issue due to contradictions in existing laws, the traditions of print and electronic media, as well as interpretations of free speech.

Free Speech

Since the advent of television, United States culture has become more and more visually oriented. As computer networks invade our homes, "a good part of our intellectual transmissions may start taking place in the digitized ether" (Anderson, 1993, p. 93). Furthermore, "to comment critically on a text, one must be able to quote from it, and media texts are no exception. This is especially true for a medium like television, because most images cannot be adequately paraphrased with words" (Jackson, 1995, p. 198).

Will free speech be suppressed by corporate media conglomerates who own the copyrighted images of today? As outlined in the *Family Handyman* example, publishers can now create or *copy* "video quotes" that can be combined with the written word in online publications for the purposes of news reporting, comment and criticism in the tradition of fair use. The question is to what extent will they be interpreted as such, first by the copyright holders and then by the courts?

Referring to a preliminary study conducted for revisions of the 1976 Copyright Act, the Supreme Court asked, "in other words, would a reasonable copyright owner have consented to the use?" (*Harper & Row v. Nation Enterprises*, 1985, p. 1974). This is not an equitable question because no copyright holder is *reasonable*, especially media conglomerates whose main function is financial gain. The very nature of our copyright laws and capitalistic economy requires them to be protective of their intellectual properties. "Media interests place rather strict and literal interpretations upon the laws that confer protection" to ensure that their works do not fall into the public domain (Lawrence, 1989, p. 8). Taking this and the fact that fair use cases are decided on very specific details, media corporations will flex their muscles to frighten anyone out of using copyrighted visuals in electronic publications. "The barrier to copying for comment and criticism is not technology, but control of information.... These concerns are stifling an effective means of commenting on the media" (Jackson, 1995 p. 191).

Contradictory Laws

Copyright holders not only have money and attorneys on their side, they also have the law.

> Although fair use theoretically applies to television just as it does to magazines and newspapers, as a practical matter it exists intermittently at best in broadcasting.... Furthermore, television "signal piracy" — that is, merely taping and then broadcasting 10 seconds of Barbara Walters in order to critique her performance — is a federal crime. (Anderson, 1993 p. 93)

The net result has been that writers can appropriate print materials with much more latitude than videographers using visual materials. The prospect of litigation, combined with the autonomy of video images "has resulted in almost a monopolistic control over video images" (Lawrence, 1989, p. 9). "Yet our society has rarely been content with a complete monopoly in copyright because it clearly contradicts the requirements of discussion and analysis that must prevail in a democracy" (p. 9).

The contradiction in laws and interpretation by the courts is now being exacerbated by technology "because it makes high quality sampling and editing easier" (Jackson, 1995,

p. 191). The World Wide Web now offers the electronic "broadcasting" (distribution) of these images at an extremely low cost. We have entered the age of the desktop broadcaster.

Furthermore, "there have been no court cases that involve the copying of a broadcast for the purpose of comment or criticism" (Jackson, 1995, p. 194). Multimedia on the Web is the first medium to truly combine text and video images in a *timely*, editorial fashion (a hybrid of a newspaper and a television news broadcast — different from CD-ROMs). These new forms of expression may be the start of "a gradual revolution in the forms of discourse that modern society relies upon for education, public discussion, and the conduct of daily business" (Timberg, 1989, p. 213). Could electronic publishing on the Internet be fertile ground for the courts to work out the contradictions of law and tradition and give more legitimacy to the fair use of video images?

No Fair Use Messiah

Some feel that copyright "issues raised in cyberspace are readily addressed by well-established principles" while others have argued "that the traditional copyright law simply cannot deal effectively with computer mediated communication" (Cavazos & Morin, 1994, p. 47). The latter have been anticipating a task force report from the Commissioner of Patents and Trademarks, Bruce A. Lehman. The report, Intellectual Property and the National Information Infrastructure (NII), however, does not call for any drastic changes:

> We believe that with no more than minor clarification and amendment, the Copyright Act ... will provide the necessary protection of rights — and limitations on those rights — to promote the progress of science and the useful arts. (Lehman, 1995, p. 11)

Some feel that the "suggestions and analysis ... do not convey a sense of carefully considered, balanced and reasoned change" (Loundy, 1995, p. 6). As far as fair use is concerned, the report merely recommended statutory changes regarding exclusive rights of the copyright holder that have already been alluded to and somewhat established by the courts: that digital transmission of a work qualifies as both distribution and reproduction (Tulchin, 1995). Proof of reproduction and distribution is an important factor in the establishment of copyright infringement, but it is not the basis of a sincere claim of fair use.

Another report from a working group subcommittee is expected, but the primary concern of this report is expected to deal with educational and library use of copyrighted materials in a digital environment (DeLoughry, 1995). In short, the proposed "IITF-recommended amendments do not solve ... some of the very real world problems posed by modern computer technology" (Loundy, 1995, p. 6). It looks as if those "in the real world" will still be left to the case-by-case analysis of the courts.

As Lehman stated, "It is reasonable to expect that the courts would approach claims of fair use in the context of NII just as they do in 'traditional' environments" (Lehman, 1995, p. 80). After mentioning several types of fair and unfair use examples, Lehman concluded, "Between these extremes, courts will have to engage in the same type of fact-intensive analysis that typifies fair use litigation and frustrates those who seek 'bright lines' clearly separating the lawful from the infringing" (1995, p. 80).

Due to the lack of "bright lines," the remainder of this paper will attempt to examine some hypothetical situations to help ease the frustration of those having to deal with the realities of electronic publishing and the ever-increasing ability to copy and manipulate digitized images. The fear of infringement litigation is probably keeping many publishers from utilizing these technologies to their fullest.

This exercise does not deal with copyright and constitutional theory, but the pragmatics of the application of long-established fair use principles. (For a complete overview of copyright and fair use issues, see Lawrence & Timberg, 1989). In order to analyze the "fair use worthiness" of these hypothetical uses of copyrighted video uses in an electronic publication, it is important to understand some fair use basics and underlying assumptions.

Copyright vs. Fair Use

Article I, §8, of the Constitution reads: "The Congress shall have Power ... to Promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

The purpose of copyright is to encourage the creation of original thought by giving a monopoly or reward to the creator. This is one side of the copyright scale, which must be balanced with the public's right to know and right to speak. Because few things are "strictly and original throughout" (*Emerson v. Davies*, 1845, p. 619) ideas and information cannot be copyrighted. The concept of copyright "pertains to the literary ... form in which the author expresses" that literary work (H.R. Rep. No. 94-1476 p. 56-57 in *Harper & Row v. Nation Enterprises*).

New media, however, bring with them new forms of expression. So each time a new medium is developed, copyright and related free speech issues are challenged. This is nothing new. In 1905, President Theodore Roosevelt said, "Our copyright laws urgently need revision ... they are difficult for the courts to interpret and impossible for the Copyright Office to administer to the satisfaction of the public" (Lawrence, 1989, p. 3). This is why the concept and further development of the fair use doctrine is so critical to the free exchange of ideas in the digital age.

Fair Use

The concept of fair use had been around for nearly two centuries (Lehman, 1995) as a "judge-made doctrine until the passage of the 1976 Copyright" (*Campbell v. Acuff-Rose Music*, 1994, p. 1356) wherein the concepts were made statutory. Until that time on through today, fair use "balances the public's interest in the free flow of ideas with the copyright holder's interest in the exclusive use of his work" (*Warner Bros. v. ABC*, 1983, p. 242). In practice, "fair use is an affirmative defense to an action of copyright infringement" (Lehman, 1995, p. 73). Since (and prior to) the 1976 Copyright Act, the courts have attempted to judge fair use cases through a relatively strict, albeit sometimes inconsistent, application of the provision as outlined in §107 of the Act:

> Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section [sic], *for purposes such as criticism, comment, news reporting*, teaching (including multiple copies for classroom use), scholarship or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include—
>
> (1) *the purpose and character of the use*, including whether such use is of a commercial nature or is for nonprofit educational purposes;

> (2) *the nature of the copyrighted work*;
> (3) *the amount and substantiality of the portion used* in relation to the copyrighted work as a whole; and
> (4) *the effect of the use upon the potential market* for or value of the copyrighted work. (Italics added.)

"Fair use analysis must always be tailored to the individual case" (*Harper & Row v. Nation Enterprises*, 1985, p. 1970). Thus, the specifics mentioned in Section 107 are not meant to be exclusive or exhaustive.

After deciding the copyrightability of the specific work, the courts have generally walked through the four provisions of the section applying the logic of previous cases to the case at hand. It then follows that the application of the four factors differs greatly from case to case depending on the specific incident. No two cases are alike. So for the purposes of this paper it is important to outline some basic assumptions or ground rules for the hypothetical situations that will be addressed later.

Assumptions for Hypothetical Case Analysis

Good Faith. As emphasized by the *Harper* court, "Fair use presupposes good faith" (p. 1970). There is no preexisting bad faith as in some attempt to blatantly avoid paying the customary price as seen in such cases as *Harper, New Line Cinema v. Bertesman Music, Hi-tech Video Productions v. Capital Cities/ABC.*

Copyright. As discussed previously, these theoretical cases will assume that the works being used are in fact deserving of their copyright status and that reproduction and distribution has occurred via electronic publishing (see Lehman, 1995).

Work is published. The courts have tended to rule against the fair use of unpublished works (*Harper & Row v. Nation, Salinger v. Random House*) therefore, these hypothetical situations will presume the use of published video.

Legitimacy of previous cases. An assumption is made as to the quality of previous fair use cases. No attempt will be made to find some "fatal" constitutional flaws and contradictions in previous cases. (For a presentation on this matter see Hartnett, 1992 .)

The remainder of this paper is devoted to addressing two hypothetical situations and applying previous case logic and the traditions of fair use. As emphasized earlier, fair use cases are often very complicated with many interacting variables. The following hypotheticals were created to aid in the discussion of the one or two provisions of the four fair use provisions to which they are applied. It is understood that there may be many other factors that might further complicate the issues.

Hypothetical Case #1

On its web site *Musician Magazine* has published a record review of the new Beatles anthology album. The review is especially critical of George Harrison's guitar solo on the song "Real Love." In the middle of the article, readers can download and view a 15-second video clip from the song's music video featuring the Harrison solo. Underneath the icon viewers use to download the clip are the words, ©1995 Apple Corps. The clip was not obtained from the record company's publicity department, but was digitally captured during the airing of the music video on ABC television in November of 1995. Apple Corps. and ABC have sued the magazine for copyright infringement.

The purpose and character of the use

In judging a fair use defense the first provision the courts generally look at is the purpose of the use. This usually concerns such issues as its commercial or non-profit nature; its status as news or entertainment; the level and type of comment or criticism, among other things.

Comment and criticism. While Section 107 specifically states purposes such as comment and criticism as being fair, this is not meant to be a blanket authorization. However, the tradition of "using passages for the purposes of fair and reasonable criticism" (*Folsom v. March*, 1845, p. 344) is well supported by the courts. The *Harper* court even offered that if the infringing *Nation* quotations had been used in a literary book review "there is little question that such a use would be fair use within the meaning of §107 of the act" (*Harper & Row v. Nation Enterprises*, 1985, p. 1995).

A use of the video clip to simply poke fun at how Harrison might have looked like a 90-year-old man and twice his age would probably not be looked upon as favorably by the court. In *New Line Cinema v. Bertesman Music*, a comic music video featuring an unauthorized likeness of "Freddy Krueger" (from the Nightmare on Elm Street series) was found to be infringing because, among other reasons, it served "solely an entertainment and promotional function" (1988, p. 26). Simply poking fun at Freddy was not considered comment, criticism or legitimate parody.

This does not, however, mean that comment or criticism of works of popular culture are precluded from the considerations of Section 107: "A comment is as eligible for fair use protection when it concerns 'Masterpiece Theater' and appears in the *New York Review of Books* as when it concerns 'As the World Turns' and appears in *Soap Opera Digest*" (*Twin Peaks Productions v. Publications International*, 1993, p. 15). The appropriation of the video for critiquing George Harrison's guitar work would probably be viewed by the court as legitimate comment and criticism. The implication here is that the ease of digital copying now gives the general public and smaller publications the capability to comment more readily on popular culture.

Profit or non-profit. In *Sony Corp. v. Universal City Studios*, the court stated that "every commercial use of copyrighted material is presumptively an unfair exploitation" (1984, p. 451). The court then used this logic in ruling against the defendant's in *Harper & Row v. Nation Enterprises*. Yet in *Acuff-Rose v. Campbell*, the court backed off and opined, "that a work's commercial nature is only one element of the first factor" (1994, p. 1354). So the fact that the video clip was part of a for-profit publication — the publishers profited from the sale of advertising on the web site — would not necessarily bar it from a finding of fair use. In the U.S., most of the legitimate uses listed in the Section 107 are conducted for profit in one form or another. Educational book publishers are just as concerned about making a profit as consumer magazine publishers. The subject matter is just different. The key question is not commercial motivation, but whether "the user stands to profit from exploitation of the copyrighted material without paying the customary price." (*Harper & Row v. Nation Enterprises*, p. 1979). As stated earlier, the likelihood of The Beatles licensing a critical review of their record is not very strong. Taking these ideas into consideration, the for-profit nature of the use of the video would probably neither support nor detract from a finding of fair use.

Degree of transformation. In *Campbell*, the court was especially concerned with whether the infringing work created "something new, with a further purpose or different character, altering the first with new expression, meaning or message" (1994, p. 1357). Even though the video clip was not transformative in and of itself, one could argue that in the context of the review of Harrison's guitar playing, the critique created a new expression, meaning and message. The use of the video clip was no more than a quote from the original work; which was necessary because "the best way to deaden a film's statement is to reduce it to words" (Timberg, 1989, p. 213). Being that the use was within the context of a critical review, the use would probably be found to be transformative. However, there is some question as to whether the court would wrestle with the separate and distinct downloadability of the clip. In other words, there is inherent entertainment value in the clip as it remains on the users computer long after the music review has been read and probably forgotten.

Hypothetical Case #2

The day after the O.J. Simpson trial verdict, the *Pasadena Weekly* placed a five-second video clip of Simpson's reaction and resulting embrace from defense attorney Johnny Cochran on its web site. The clip was featured in a commentary on the social implications of the trial and resulting verdict. The paper's editor had picked up the clip off of Court Television's (the cable network) area on America Online (a public computer and information service). After downloading it, the editor prepared it for publication on the *Pasadena Weekly* web site along with the accompanying commentary. The commentary mentioned that the video clip was courtesy of Court TV. The cable network has sought an injunction requiring the *Weekly* to remove it from the site. The paper is claiming fair use.

Nature of the Copyrighted Work

With this hypothetical case the nature of the copyrighted work is discussed. Here, the court places the work in a copyright continuum, with some works deserving a more stringent application of the four factors than others. "This factor calls for recognition that some works are closer to the core of intended copyright protection than others" (*Campbell v. Acuff-Rose*, 1994, p. 1361)

Work of fiction or fact? This aspect of the factor seeks to "broaden the protection of those works that are creative, fictional, or highly original and lessen the protection for those works that are factual, informational or functional" (*Religious Technology Center v. Netcom On-line Communication Svs.*, 1995, p. 30). The copyrighted work in this hypothetical case was obviously factual in nature. While one might argue that the Court TV's complete "article" on America Online was deserving of full copyright protection, Court TV's clip was itself taken from a public news feed of the single camera in the trial courtroom, which was provided to all broadcast and cable outlets.

Public interest vs. private nature. The courts tend to favor fair use of works of high social interest (*Time Inc. v. Bernard Geis Associates*) and frown upon the use of those that are private and unpublished (*Salinger v. Random House*). The hypothetical situation at hand is obviously a case of very public information worthy of social comment. The trial has among other things been called, "The Trial of the Century" and has had a number of serious social implications in terms of race relations and the judicial system. While this may not have the implications of the assassination of a president, the issues raised by the case rank high in public opinion polls. Other recent examples of news events with enough public interest might include the Rodney King and Reginald Denny beatings (Jackson, 1995) as well the Challenger Explosion and scenes from the Oklahoma City bombings. Again, what makes this a significant issue is not that the number of serious public events is increasing but the capacity and number of publications that might want to discuss these issues along with the use of a video quote in an electronic format has increased dramatically in the digital age.

Form of the work. In the NII report, Lehman infers that a digital work might "be treated differently from a work in ... analog form for the purposes of evaluating this factor" (1995, p. 78). The *Weekly* might argue here that the work — in its digital form —

combined with its publication for downloading in a highly public area, was published for the express purpose of public dialogue. The paper's continuing use of the clip was simply a continuation to that end.

In judging the nature of the copyrighted work, the key is to strike a balance "between the benefit the public will derive if the use is permitted and the personal gain the copyright owner will receive if the use is denied" (*MCA, Inc. v. Wilson*, 1981, p. 183). Through the *digital publication* of the clip — if Court TV sought to generate public dialogue in a *digital domain* on an important social issue — the *Weekly*'s secondary use of the clip might be considered evidence that it succeeded in doing so. Therefore, there would be no serious loss to Court TV. So in terms of this factor, the courts might be in favor of fair use finding. The new digital domain is bringing with it a whole new set of rules.

Relative Amount of Taking

This factor has at times been called the least of the four factors (Lehman, 1995,). For the discussion of this factor, we return to the taking of The Beatles video. It is given that "the amount of copied material must comprise only a very small percentage of the copyrighted works both from a quantitative and qualitative standpoint" (*Religious Technology Center v. Netcom On-line Communication Svs.*, 1995, p. 101-102) and the use should not appropriate the heart of the work (*Harper & Row v. Nation Enterprises*, 1985). However, one new point that has never been considered before is the digital size and quality of the taking.

Digital quality. When judging the amount taken (and also the degree of transformation), one characteristic of the transformed clip which might favor fair use, is the "viewability" of the clip when compared to the broadcast quality of the original video. In *Haberman v. Hustler* (1986), the court found the magazine's visual reproduction of the plaintiff's postcards, along with some entertainment-oriented comments, to be fair, partly because the postcards were reduced in size when they appeared in the magazine. The combination of differing size and differing paper weight apparently constituted an insignificant taking.

Before being loaded onto a web site, a video clip's resolution (pixels per inch) is drastically reduced to compress it's size (in bits) to facilitate a quick transfer to the viewer's computer (reproduction and distribution). The typical finished viewing area is only about 2" x 2", a virtual thumbnail view of the original. When viewed at a larger size, the clip becomes a mush of computer pixels. The number of colors is sometimes reduced from millions to thousands and the number of frames per second is reduced as well. The transformed clip is not as colorful, and somewhat jittery, but provides enough information to get the idea across (or just enough to conjure up the original work).

The courts might weigh this technical reduction of the copyrighted work in favor of a finding of transformation and fair use because it requires original work, thought and creativity to produce. This same logic has been used by plaintiffs in cases involving still and video photography where defendants argued that act of taking photos did not require any serious degree of originality or creativity. The transformation of a video clip requires a considerable amount of work and some creativity; meanwhile, the finished segment has been drastically reduced in size and quality relative to the original clip. This will change in the future, however, as transmission speeds increase and video compression processes improve.

Effect on the Value or Market of the Work

The fourth and final factor is "undoubtedly the single most important element of fair use" (*Harper & Row v. Nation Enterprises*, 1985, p. 1981). As the court outlined, "This inquiry must take account not only of harm to the original but also of harm to the market for derivative works" (p. 1982).

Before examining this, however, there must be a clear understanding between market *harm* and market *reduction*. Market harm occurs when unlicensed copying takes place and customers are drawn away from the original product to a copied substitute; market reduction can take place through the critical review of a product causing buyers not to purchase (the Beatles record in case #1, for example) . "When a scathing theater review ... kills demand for the original, it does not produce a harm cognizable under the Copyright

Act" (*Campbell v. Acuff-Rose*, 1994, p. 1363). So with this being said, there are two distinct markets being dealt with here, the market for the original and the market (or potential market) for derivative works.

Original market. What ramifications does the ease of digital copy have on the original market? Barring the complete broadcast of some type of short event (*Zacchini v. Scripps-Howard*) or perhaps sports highlights (*New Boston Television v. ESPN*), it would be difficult to argue that the widespread distribution of these thumbnail video clips have any serious harm on the original market. In fact some evidence suggests that just the opposite may be the case.

Many motion picture releases now have their own web sites for the express purpose of promoting the film. For example, the Disney hit, "Toy Story" has its own web site (www.toystory.com) where one can download video clips (:15 and :30) and almost two dozen sound bites along with other promotional items. If copyright owners are using this technology without "giving away the store" then it is difficult to argue that an electronic publication using the same types of clips for the purpose of news reporting, comment and criticism would do so.

Potential market. According to Lehman (1995, p. 82, referring to *American Geophysical Union v. Texaco*), if the copyright owner "fail[s] to establish a licensing system for the use in question, then the balance might shift in favor of a finding of fair use." However, if it is just a matter of not having established a secondary market system *yet*, this would weigh against fair use (see *Jesse L. Jackson v. MPI Home Video*). If there is no licensing system it is due to one of the following reasons: a) one has not been established yet, b) the owners don't want to set one up, or c) there is no market for it. In light of the relative quality of these video quotes, it will be interesting to see if some sort of licensing market develops for these clips. This author predicts that one will not develop because authors are not going to pay for the right to "free visual speech." Copyright owners of visual images will continue to exert their tradition-made rights until some "David decides to take on Goliath" and challenge the use of these types of clips in the digital, multimedia environment.

Conclusion

For communications scholars, this is an especially exciting time to be studying mass media. The opportunity to use these "visual quotes" in electronic publication settings is an intriguing technological development. This paper has probably raised more questions than it has actually answered. But this exercise will hopefully enable others to ask the right questions. But there is no doubt that these two conflicting traditions — the fair use of written quotes and the extended protection afforded to visual footage — are headed for some type of a showdown. Based on the increasing use of visuals in our society, and the traditions of free speech and fair use, it is hoped that the courts will establish the fair use of these video quotes early in the development of the information superhighway.

In the for-profit publishing environment, this author predicts that the earliest fair uses on the World Wide Web will be in the areas of social comment and criticism — as outlined in the hypothetical cases. While it might be technically against the law to copy video for use in a critique on a conventional broadcast, it remains to be seen what the result will be for a use in a digital domain. Hopefully, these more direct examples of fair use will extend the boundaries and lead the way for other less obvious forms of fair use.

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PERSONAL COMPUTER ADOPTION AND INTERNET USE

By

Carolyn A. Lin
Department of Communication
Cleveland State University
Cleveland, Ohio 44115

Top three paper presented to the Communication Technology and Policy Division at the annual conference of the Association for Education in Journalism and Mass Communication, Anaheim, California, August, 1996.

PERSONAL COMPUTER ADOPTION AND INTERNET USE

ABSTRACT

Recent publicity concerning the "information superhighway" has increased public awareness of computer adoption. But, in gaining a better understanding of this process, it's useful to assess why computer mediated communication services have been slow in diffusing through the population to date.

The present study proposed a "need-adaptation adoption process" model to help explore this personal computer diffusion phenomenon in relation to Internet use. Even though the study only provided an exploratory examination for the different components in the proposed model, preliminary findings seem to support the basic underlying theoretical assumptions of the model. The integration of several bodies of literature--including media/technology clusters, media/communication technology use patterns, diffusion theory, and the uses and gratifications perspective--is also valuable since the distinction between mass media communication and computer communication has blurred.

PERSONAL COMPUTER ADOPTION AND INTERNET USE

INTRODUCTION

Much has been said about the wonders and richness of information one can explore in the world of online computer databases--such as the World Wide Web--through the so-called "Internet." Posting numerous databases on a wide range of interconnected computer networks, the Internet reflects the most interesting development in the history of personal computers. In essence, personal computers used in a networking environment are no longer limited to serving as only a word processor, computing apparatus or videogame player; they are now capable of functioning as a communication medium. For that reason, market research has indicated that internet access is one of the main reasons for personal computer adoption (McAvoy, 1994).

While an estimated 27.5 million people use the internet, either at home or at work, only about 10% of Americans subscribed to a gateway commercial on-line service in 1995; the personal computer adoption rate was just over 30% that year (Lewis, 1995). Aside from institutional applications, the most interesting questions concerning Internet uses involve the potential access patterns of the general public. In order to further popularize public access to the Internet, it's important to understand the demographic and psychological factors relevant to personal computer adoption. This study visits that question by examining personal computer adoption and its relation to likely Internet user motives, needs, incentives, media use patterns, technology ownership, potential Internet use patterns and pertinent social locators.

LITERATURE REVIEW

Despite the immense interest generated by the Internet phenomenon in the 1990s, there are few extant studies that directly address this topic in communication research. In order to gain a better understanding of personal computer adoption and the internet use phenomenon, it's useful to revisit some of the earlier work on home computer and videotext service adoption by drawing from several theoretical perspectives. In particular, videotext services can be considered as the precursor to the current online communication and Internet services.

Innovativeness and Adoption

Most studies addressing the adoption of communication technology products tend to focus on the concept of the innovativeness traits in individuals. The concept of innovativeness, as defined by Rogers and Shoemaker (1971, p. 27), is "the degree to which an individual is relatively earlier in adopting an innovation than other members of his social system." An alternative definition, provided by Midgley and Dowling (1978, p. 236), states that innovativeness is "the degree to which an individual is receptive to new ideas and makes innovation decisions independently of the communicated experience of others."

Neither of these two definitions explains the origin of this "innovativeness" attribute; empirical studies tend to find it highly correlated with social locator variables, however

(Rogers & Shoemaker, 1971). Social locator variables are thus often treated as the antecedent factor to individual innovativeness. These social locator variables typically portray innovative individuals who adopt a new product relatively earlier than others as being middle-aged, married (often with school-age children), upper-middle income (or higher), college educated and male (Rogers, Dutton, & Jun, 1987).

Other approaches to explain the origin of an individual's innovativeness include personality styles such as venturesomeness (Foxall & Bhate, 1991) and communication patterns (e.g., media consumption, opinion leadership) (see Rogers, 1995). Missing from these different explanations is the exploration of the inherent psychological factors which help formulate these observable demographic and/or behavioral traits.

Hirshman (1980) argues that the causes for innovativeness can be traced back to the underlying construct of novelty-seeking motives. These novelty seeking motives, as noted by Flavell (1977) may serve two purposes: enhancement of self-preservation and problem-solving skills. Individuals with stronger novelty seeking motives may proceed to either (1) develop a novelty-seeking orientation (or willingness to adopt) or (2) to actualize this novelty seeking intention (or engage in actual adoption). Midgley and Dowling (1978) labeled the former as "inherent innovativeness" and the latter as "actualized innovativeness."

Need for Innovativeness

While Midgley and Dowling's theoretical explication (1978) is behaviorally based, such a conceptual distinction is essential. As evidenced by the shortcomings in most adoption and innovation research, the younger yet less affluent individuals often are not identified as innovators, due to their lack of adoption activity instead of their lack of innovativeness. By linking this conceptual distinction to the search for the origin of innovativeness, it seems logical that Maslow's (1970) "hierarchy of needs" may provide a potent theoretical linkage between these two constructs, in particular the need for "self actualization."

This self-actualization need may prompt an individual to develop different personality styles and communication patterns to fulfill such a need. For example, while some may pursue artistic expression, others may seek to keep up with innovative ideas or products. The latter group presumably then suits the varied conventional definitions of innovative individuals who possess an internal **need for innovativeness**.

Those innovative individuals who have the specific financial resources to adopt a new product have, in effect, completed the innovative "need-adaptation" process and thus have fulfilled their self-actualization need for innovativeness. Alternatively, those innovative individuals who lack the specific financial resources to adopt a new product are still in line for completing the innovative "need-adaptation" process and hence have not fulfilled their self-actualization need for innovativeness.

The specific financial **resources** in this particular context refers to the evaluation of financial resources available for purchase based more on one's perception of the product's value than on its actual monetary cost. Based on this theoretical premise, the following research question is posited to investigate this assumption.

RQ1: How do nonadopters, likely adopters and adopters of personal computers differ in their perceived financial resources and need for innovativeness?

Need-Adaptation Adoption Process

This proposed conceptual framework is potentially useful in identifying the psychological nature of those individuals who are innately innovative but differentiated by their actual adoption behavior. Within this need-adaptation adoption process, there may be a set of antecedent variables which help formulate an individual's need for innovativeness and another set of intervening factors that help formulate an individual's decision to complete the need-adaptation adoption process.

These factors may include such dimensions as social locator variables and other reciprocal factors such as media and/or communication technology use behavior and communication technology ownership. On the other hand, there may also be a set of evaluative criteria that help determine whether an innovative individual will fulfill or delay the fulfillment of their need for innovativeness. These evaluative criteria may include an individual's perceived available financial resources (to adopt a particular new technology product), perceived complexity for the technology use, perceived advantages or usefulness of the technology use (Rogers, 1995) and need for gratification (Lin, 1993). The discussion below provides a review of literature for each of these relevant theoretical components.

Social Locators. Early studies suggest that computer adopters tend to be of a higher socio-economic status than the rest of the population (e.g., Dutton, Rogers, & Jun, 1987). Computer technology adopters such as videotext users are also prone to be upscale (Ettema, 1984). Adopters of computer bulletin services also approximate the demographic profile of general "innovators," inasmuch as they are typically younger and better educated (Garramone, Anderson, & Harris, 1986; Dutton et al., 1987).

More recent studies suggest a similar profile. According to industry research, married couples with children under age 18 are the households most likely to have personal computers, accounting for 44% of the home computer market in 1994 (Crispell, 1994). Another industry survey indicates that "techthusiasts" tend to be younger (with a median age of 38), affluent (with a median household income of $56,000) and better educated (with more than 14 years of school) than average Americans (Mitchell, 1994).

Interestingly, the traditional gender gap in technology use seems to have been bridged. A study reported that among primary computer users and long-time computer owners, there is little gender difference when it comes to interest in computer use applications (American Demographics, 1994). Given that the personal computer is currently approaching the growth phase of its product life cycle, the diffusion rate has been accelerating due to price competition (Crispell, 1994). This suggests a potentially wider diffusion of computers into the less upscale consumer segments. Hence,

RQ2: How does the demographic profile differ for nonadopters, likely adopters and adopters of personal computers?

Media/Communication Technology Use. Preliminary studies suggest that computer adopters watch less television and partake in fewer recreational activities (Vitliari, Venkatesh & Gronhaug, 1985) but use such unrelated technologies as the pocket calculator and video games (Dickerson & Gentry, 1983). While media and other technology product use level may have an impact on personal computer adoption, interest in Internet uses may also help influence an individual's adoption decision. Since there is a dearth of literature in this particular area, existing research on online communication will be referenced instead.

According to Heikkinen and Reese (1986), both heavier and light newspaper readers are similarly interested in potential videotext news adoption. Contrastingly, Lin's (1994) videotext adoption study revealed that media use activities such as access to magazines, newspapers, radio, compact discs, television, VCRs, and video cameras are largely irrelevant to the adoption of videotext. In another study, the use of electronic bulletin boards was found to have no effect on reducing or increasing other online communication activity, although it did reduce time spent with television viewing, book reading and telephone use (James, Wotring, Forrest, 1995). Similarly, Jeffres and Atkin (1996) also failed to find a consistent relationship between interest in using Internet services and use of other media.

These inconclusive findings seem to imply that the relations between an individual's existing media/communication technology use and computer technology adoption/uses are mediated by his/her "modern orientation" toward new technology (Heikkinen & Reese, 1986, p. 32). In other words, varying degrees of need for innovativeness may function to differentiate perceived degrees of innovativeness associated with different media/ communication technologies and hence their uses. Based on this assumption, the following research question explores this distinction.

RQ3: How does level of media and Internet service use differ among nonadopters, likely adopters and adopters of personal computers?

Communication technology ownership. Pioneering studies of computer adoption (Blumler, 1980; Dickerson & Gentry, 1983) addressed the compatibility between innovations and the existing values, past experiences and needs of potential users. Studies reveal that the adoption of new text services is related to the adoption of other innovations (Ettema, 1984), as experience with technology encourages adoption of cable and computer media (e. g. Dutton, et al., 1987; LaRose & Atkin, 1988).

Some work points to the existence of "technology clusters", as when users adopt functionally similar media (Yankee Group, 1988). Reagan (1987, 1991), for instance, found that adoption of most telecommunication technologies studied was more powerfully predicted by (1) use of other such technologies and (2) attitudes toward them. Although little work focuses exclusively on adoption of Internet services, researchers (LaRose & Atkin, 1992; Reagan, 1987) found that the adoption of information services was interrelated.

Contrastingly, Lin (1994) found computer literacy variables, including mainframe and microcomputer use experience, microcomputer ownership, and years of usage, were unrelated to videotext adoption (with the exception of potential personal computer adopters). Such tendencies run counter to the "technology cluster" notion indicated by Dozier et al. (1986) and the Yankee Group (1988). Hence, one can not automatically assume that ownership of presumed "clustered technologies" would lead to the adoption of personal computers. This helps raise the following research question:

RQ4: How does communication technology ownership differ among nonadopters, likely adopters and adopters of personal computers?

Complexity and Relative advantage. These two innovation-decision process constructs proposed by Rogers (1995, p.163), have been operationally defined and termed by other researchers as "ease of use" and "usefulness." For instance, Davis, Bagozzi and Warshaw (1992) found that the effect of ease of use and work output quality (e.g., documents, graphs, calculation, etc.) on computer use intention is mediated by perceived usefulness and enjoyment of computer use in the workplace.

Similarly, Bagozzi, Davis and Warshaw (1992) revealed that attitudes toward success or failure one may encounter and the effort one is willing to exert--during the computer use learning process--helps determine the computer adoption intention among MBA students. In other words, the potential complexity or ease involved in computer use is a strong attitudinal antecedent to influencing the computer adoption decision.

Turning to interactive computer use research, Trevino and Webster (1992) contend that employee interaction flow is influenced by perceived ease of use and perceived communication effectiveness (or relative advantages) of electronic mail. Ettema (1984), on the other hand, found some evidence that up-to-the-minute updates represent a relative advantage of videotext over print newspapers. One of the limiting factors for videotext's early growth involved the virtual requirement of computer ownership, which many regard as a complex technology (Atkin, 1995; Blumler, 1980; Lin, 1994). Although these studies are representative of a growing literature on general computerphobia, there seems to be no parallel literature on the perceived complexity of individual computer applications. Thus

RQ5: How do nonadopters, likely adopters and adopters differ in their perception of complexity and relative advantage in relation to computer adoption?

Need for Gratification. This construct stems from the tradition of the uses and gratifications perspective. It presumes that as individual's media use behavior is motivated by the expectation to fulfill certain self-actualization needs (independent of the innovativeness need)--such as entertainment, personal identity or companionship. Rafaeli (1986) suggests that it's useful to conceptualize computer use from this perspective, which assumes that content choices are motivated by certain internal needs and gratification-seeking motives.[1]

Dutton, Rogers and Jun (1987) further assert the validity of this application by documenting the empirical evidence which proves expected computer uses are indeed associated with how the computer is actually used. By examining the relations between different media clusters and their ability for need gratification, Perse and Courtright (1993) found that computers are the least capable of fulfilling those conventional media use gratification expectations.

Garramone, Harris and Anderson's (1986) study of political bulletin board use confirmed that overall bulletin board use is equality motivated by surveillance, personal identity and diversion needs, while the interactive nature of the bulletin board is most strongly associated with gratifying the personal identity need. While Ettema (1984) concludes that videotext adopters are most concerned with business-oriented rather than consumer-oriented applications, Lin (1994) affirmed that videotext uses are highly utility driven and surveillance needs are strongly predictive of the adoption of videotext services. In a similar vein, James, Votring and Forrest (1995) revealed that informational/learning purposes and socialization are the two most frequently cited electronic bulletin board uses. Jeffres and Atkin (1996) found that attitudinal variables, particularly those addressing communication needs served by computer technology, are predictive of Internet adoption intentions.

As the personal computer market is marketing computers designed primarily for Internet access purposes, it is apparent that internet access is a prime incentive for today's computer adopters. Extending from this market reality, the present study hence considers **Internet use motives** as an important factor in influencing personal computer adoption.

RQ6: How do nonadopters, likely adopters and adopters differ in their Internet use motives?

RESEARCH METHODS AND PROCEDURES

A telephone survey was conducted via a computer aided telephone interview (CATI) system, using a list of random numbers. The survey was conducted in an ethnically diverse metropolitan area of the Midwest, with a population base above one million. Our final sample yielded 561 valid and complete surveys, reflecting a 63% response rate after excluding invalid and business numbers.

The survey questionnaire contains measures assessing the following major variable blocks--internet use motives, needs and incentives, telecommunications technology ownership, media use level and social locators.

Internet Use Motives. Respondents were asked to rank their agreement with a series of 18 reasons for surfing the "information superhighway", after explanations were provided for the term. These 18 items were adapted from a uses and gratifications study (Lin, 1993), reflecting five different motivational dimensions--entertainment, companionship, surveillance, informational learning and social identity. A five-point Likert scale, ranging from "very likely" to "very unlikely," was used.

A factor analysis used to find variable groupings yielded three factors instead of the five that had been anticipated. After taking out the variables that loaded on none or more than one factor, the final factor analysis (see Table 1) presented two factors: "interaction," "surveillance" and "escape" with Cronbach's alphas reaching .90, .91 and .75, respectively.

Resources, Needs and Incentives. Respondents were asked to rank their agreement with a series of 18 reasons for adopting a personal computer. Factor analysis yielded four factors, consistent with the expectations derived from the theoretical assumptions discussed above (Table 2).

Resources. Respondents were asked about how strongly they agree with the three statements which describe the cost of personal computers, computer printers and computer software as being too high. The five-point Likert scale response categories range from "strongly agree" to "strongly disagree." Table 2 shows the factor analysis results where the three statements were grouped into one factor, with a Cronbach's alpha at .83.

Need for Innovativeness. Eight statements reflecting an individual's potential psychological needs for being computer literate were used to assess respondent agreement or disagreement with them. Once again, the five-point Likert scale responses range from "strongly agree" to "strongly disagree." The factor analysis in Table 2 showed the four remaining statements in one factor, after two variables that loaded on more than one factor were eliminated. Only the three highest loaded variables were collapsed into a factor, with a Cronbach's alpha at .76, after a reliability test elimination process.

Complexity. Three items describing the difficulty, intimidation and frustration of learning how to use a personal computer were asked. The respondents gave their answers based a five-point Likert scale in terms of their degree of agreement with each item. Table 2 grouped the three items into one factor, with a Cronbach's alpha at .80.

Advantages. There were four statements used to assess the responses on the relative advantage of being computer-literate (see Table 1b). The same "agreement-disagreement" five-point Likert scale is also used here. These four statements were shown in one factor (Table 2), with a Cronbach's alpha at .82.

Communication Technology Ownership. A list of fourteen communication technology products and services was used to ask the respondents whether they own any of these items and the number of units they own for each. These fourteen items include satellite dish, VCR, video camera, compact disc player, laser disc player, video game player, electronic personal organizer, electronic pager, answering machine, cellular telephone, fax machine, word processor, cable TV subscription, premium cable TV subscription, DBS subscription and voice mail subscription. The sum score of the total number of technology units owned was computed to reflect the level of technology ownership.

Media Use. Respondents were asked to report their media consumption level for the following categories: the number of hours spent watching television and listening to radio daily, and the number of days spent reading a newspaper and a magazine weekly.

Internet Use. After explaining the major categories of online service features, respondents were asked to indicate their degree of likelihood in accessing any of the 23 service feature categories (see Table 2). The five-point Likert scale ranges from "very likely" to "very unlikely." The average sum score for the 23 feature categories was computed to reflect the likelihood level for use.

Demographic Background. Respondents were asked the following demographic questions: gender (dummy coded), age, income level, education level, number of children living at home, marital status (dummy coded), employment status and occupation. They were also questioned about whether they are a personal computer owner (**adopter**); nonowners were classified as **likely adopters** and **nonadopters**, representing those who plan to purchase a personal computer in the near future (within a certain time frame) and those who don't, respectively.

RESEARCH RESULTS

While Tables 1 and 2 outlined the factor analysis for Internet use motives, Table 3 illustrates the popularity (or likelihood of adopting) various online service features. It appears that the most popular services, ranging between "somewhat likely" and "likely" candidates for adoption, involved applications for library (M=3.2), encyclopedia services (M=3.1), electronic mail (M=3.1), ticketmaster (M=3.0), travel booking

(M=3.0) and weather information services (M=3.0). They were followed by yellow pages service and home security services (both at M=2.9). In the mid mean range (i.e., somewhat likely), banking, finance/investment, accounting/tax filing, sports news, movie releases, restaurant booking and video game services are clustered (ranging from M=2.5 to M=2.7). The services least likely to be adopted involved newspapers, retail ads, magazines, retail good shopping, grocery shopping, TV news, chat-lines and TV guides (mean values ranging from 2.1 to 2.4).

One-way Anova results are outlined in Table 4. In addressing RQ1, computer adopter groups are arrayed in a linear descending fashion on the **need for innovativeness** measure, with adopters followed by likely adopters and finally nonadopters ($p \leq .000$). Interestingly, as postulated by the conceptual framework, perceived available **resources** for computer adoption is found to be more a function of product value than product cost evaluation. In particular, likely adopters report they perceive fewer available resources than both nonadopters and adopters. The lack of difference in the perception between those latter groups further affirms the assumption that adoption is more than just a function of perceived available resources ($p \leq .005$).

With regard to the question of **demographic background** outlined in RQ2, between group differences were only found with nonadopters and adopters in terms of the number of children or gender. Even so, the comparisons for the number of children ($p \leq .006$) and gender ($p \leq .007$) across groups achieved overall statistical significance. Moreover, nonadopters are less educated than either adopters or likely adopters and the latter group is less educated than adopters ($p \leq .000$). The relationship with income is also strictly linear, with adopters indicating the greatest affluence level, followed by likely adopters and finally nonadopters ($p \leq .000$). Finally, nonadopters are significantly older than their adopter and likely adopter counterparts, but the latter two groups are similar in age ($p \leq .000$).

Turning to the **media** and **Internet use** query in RQ3, most traditional media use was not significantly differentiated across computer adopter groups. Only television use was significantly differentiated ($p \leq .000$); as nonadopters and likely adopters spent similar amounts of time watching television, they were both heavier viewers than adopters. Nonadopters were also significantly less likely to express **Internet use** intentions, relative to the other adopter groups. Likely adopters were most likely to use the Internet, followed by actual computer adopters ($p \leq .000$). This suggests that Internet access could be an impetus for personal computer adoption intentions.

With respect to RQ 4, a strong linear pattern for **technology ownership** across the computer adopter groups is observed. In particular, computer adopters indicate the highest level of ownership, followed by likely adopters and finally nonadopters ($p \leq .000$).

Findings for RQ 5 indicate that no significant differences were found for the comparison of perceived complexity of computer use across groups. As for perceived **relative advantage ($p \leq$**

.000), while nonadopters perceived a significantly lower level of product benefits than either adopters or likely adopters; the difference in such perceptions between the latter groups is insignificant.

Results addressing **Internet use motives** in RQ 6 indicate that, while adopters and likely adopters were similarly prone to engage in **interaction** oriented Internet uses, nonadopters were significantly less likely to do so ($p \leq .000$). By the same token, adopters and likely adopters both express a similar level of motivation to access the Internet for **surveillance** purposes, which is significantly greater than that expressed by the nonadopters ($p \leq .000$). While adopters shared a similar level of motivation to access the Internet for escape reasons with both nonadopters and likely adopters, likely adopters expressed a stronger motivation than nonadopters ($p \leq .032$).

DISCUSSION

This study compared personal computer adopters, likely adopters and nonadopters in terms of their psychological orientation, attitudinal tendencies, media and technology use and demographic backgrounds. Findings generally confirm the expected relationships between all of these different components in the proposed conceptual framework, except for existing mass media use patterns including radio, newspapers and magazines.

The lack of differentiation in traditional media use (with the exception of television viewing) among these three groups of individuals is indicative of how a new operational definition for the media/technology cluster concept, as applied to computer technology adoption, needs to be generated. In fact, Perse and Courtright (1993) found that computers are not clustered with any of the traditional mass media, including cable television and interpersonal communication channels such as the telephones.

As further evidenced by the findings of Heikkenen and Reese (1986), an individual's "modern orientation" (or need for innovativeness) toward new technology--as opposed to use of newspapers--is the stronger determinant for videotext news adoption. In a even more onerous fashion, Lin's (1994) videotext adoption study results completely contradict the assumptions underlying media/technology cluster concept. Her findings revealed that, even among personal computer adopters, videotext adoption is not a given, provided that more innovative adopters may utilize their computers in more innovative ways (e.g., videotext adoption) than their less innovative counterparts.

In retrospect, media/technology clusters are typically formulated based on the types of communication needs expected to be gratified by these media or communication technologies from a "functional equivalence" perspective. Thus, to construct a new operational definition for media/technology clusters, it may be necessary to first extract the degree of innovativeness for each of these media or technologies as the basis for clustering.

With this preamble in mind, it is logical to see that likely computer adopters express a stronger interest in Internet use than adopters and nonadopters, as they may perceive the Internet technology as being associated with a higher degree of innovativeness than their counterparts. Even so, these likely computer adopters' potential lack of financial resources still restricts them to owning a smaller number of communication technologies than those wealthier adopters.

These relatively prominent demographic differences are characteristic of a computer technology that remains in its early adoption phase, due to its attributes as an innovation and relative high cost. In particular, the distinctive profiles for adopters and likely adopters stands in contrast to those of more "mature" media that have reached the plateau of their diffusion curve, such as cable television and VCRs (Lin, 1994). The current study also confirmed that there is no real gender gap between likely adopters and adopters, consistent with past findings (American Demographics, 1994).

More importantly, the apparent lack of differences in age between adopters and likely adopters, combined with the significant income gap and a moderate education gap between these two groups, is an implicit validation for the proposed conceptual framework. That is, likely adopters may be those who are oriented toward the need for innovativeness but lack the financial resources to fulfill such a need in the early adoption phase of personal computers.

This interpretation does closely parallel the findings depicting the need for innovativeness as being the strongest among adopters, followed by likely adopters and nonadopters, in that order. Furthermore, while nonadopters and adopters perceived similarly available financial resources for personal computer adoption, nonadopters did not plan to use it for that purpose. By contrast, despite the likely adopters' lack of available financial resources for personal computer adoption, they planned to execute such a purchase in near future. This result further reflects the fact that likely adopters have a stronger need for innovativeness than nonadopters.

Interestingly, while likely adopters were found to perceive greater potential advantages related to personal computer adoption than nonadopters, perceived complexity of computer-use learning was similar across all three adopter categories. This suggests that individuals with a stronger need for innovativeness (i.e., the likely adopters) would also perceive greater relative advantages in innovative product adoption than those with a weaker need for innovativeness (i.e., nonadopters), regardless of the complexity involved in the use of that product. It is also possible that some nonadopters may not have much experience with computer use and hence are unfamiliar with the complexity involved.

Complexity notwithstanding, the perception of relative advantage in relation to technology adoption is related to an individual's utilitarian motives--similar to those motives associated with traditional media use (consistent with the uses and gratification paradigm). As stated above, since Internet access is currently one of the main reasons for personal computer adoption, it is important to understand what types of "needs" Internet access may be expected to gratify.

Not surprisingly, the present findings yielded only three potential Internet use motives instead of the usual five or six traditional media use motives, as Internet use may not belong to the same technology cluster with those traditional media. While the strongest Internet use motivation dimension (i.e., interaction) represents the need for gratification in the areas of interactive entertainment and socialization, the second strongest dimension (i.e., surveillance) denotes the need for environmental surveillance gratification. The weakest motivation dimension (i.e., escape) suggests the need for reality escape through Internet use.

The reason for this interesting "blending" of initial motivation dimensions is perhaps related to the Internet services' ability to "imitate" both interpersonal and mass communication channel characteristics and to gratify the perceived need gratification expectations associated with each type of communication channel. For instance, playing interactive video games may gratify two types of needs--"parasocial interaction" and entertainment (in a virtual world). In addition, exchanging messages and ideas on the Internet may also serve to meet several need-gratification expectations including social identity-seeking, interpersonal communication and social interaction.

CONCLUSION

Given that personal computers are now capable of providing multifunctional communication services--including computing, word processing, graphic creation, messaging, document transporting (e.g., faxing), imaging, database searching, audio-visual transmitting, and the like--it will be increasingly difficult to distinguish them from such traditional mass media as television or newspapers in the near future. The development and rise of interactive online communication services, especially, the universally accessible "Internet," is forcing both society and researchers alike to reconceptualize the notion of communication in its traditional sense.

To help facilitate this reconceptualization process, the present study proposed a "need-adaptation adoption process" model. Even though the study only provided an exploratory examination for the different components in the proposed model, preliminary findings seem to support the basic underlying theoretical assumptions of the model. The integration of several bodies of literature--including media/technology clusters, media/communication technology use patterns, diffusion theory, and the uses and gratifications perspective--is also valuable since the distinction between mass media communication and computer communication has blurred.

Furthermore, the "likely adopter" conception introduced in the proposed model also provides strong consonance with diffusion theory--insofar as nonadopters can be empirically isolated with valid measures. This particular concept helps point to a new typology that could more reliably measure adoption intentions, adopter innovativeness and potential adoption decisions. This type of "continuum" categorization could also help researchers profile, for instance, a segment of younger innovators (either computer literate or not) who have not adopted information services--perhaps owing to financial limitations--that will likely become adopters when their earnings increase alongside their education level.

As the task of linking different communication technologies in "innovativeness clusters" proposed by this study still needs to be completed, the difficulty may lie in the existing novel nature of some of these technologies, such as the Internet, for the general public. Apparently, the longer the duration a communication technology is considered a novelty, the slower and longer the diffusion process for that technology will be. Moreover, these new online communication applications may also need to overcome the malaise observers have noted with past diffusion failure of the videotext services. For, as past observers (e.g., Ettema, 1989) have noted, the failure of videotext adoption in the U.S. could be attributed to public perceptions that it was a more expensive, less convenient substitute for services that were already available to customers (e.g., mail catalogs, automatic teller banking, etc).

At present, we are gradually progressing toward the gateway of an integrated systems digital network (or ISDN) communication environment. This future ISDN environment may provide communication services, ranging from basic electronic messaging to 500 channel voice, video and data services (Lin, 1994). These services may include features such as "home utility management (e.g., meter reading), telephone, data transmission, two-way cable television, interactive television, video-on-demand, etc." They may also "broaden the 'home work' scope to make telecommuting from home a viable option" (Lin, 1994, p. 1). At this critical juncture, it remains to be seen how individuals and society would adapt to these complex innovations and willingly adopt them in the near future.

Table 1 Factor Analysis for Internet Use Motives

Variables	Factor 1	Factor 2	Factor 3
Interaction			
Fun	**.80**	.28	.13
Excitement	**.77**	.22	.17
Entertainment	**.79**	.27	.16
Chat Line	**.68**	.17	.42
Exchange Ideas	**.68**	.22	.41
Make Friends	**.65**	.16	.44
Surveillance			
Local News	.31	**.80**	.14
National News	.25	**.89**	.19
World News	.23	**.89**	.18
Escape			
Solve Problems	.16	.24	**.70**
Forget Problems	.21	.07	**.84**
Tune Out Problems	.33	.15	**.71**
% Variance	51.6	12.0	8.4
Eigenvalue	6.19	1.44	1.01

Table 2 Factor Analysis for Resources, Needs and Incentives

Variables	Factor 1	Factor 2	Factor 3	Factor 4
Resources				
PC Cost	-.03	-.03	**.87**	.13
Printer Cost	-.03	-.01	**.90**	.10
Software Cost	.02	.10	**.79**	.07
Needs for Innovativeness				
Willing to learn New Ideas	.18	**.74**	.02	.12
Willing to Explore New Tech	.16	**.84**	-.03	.06
Keep Up with New Tech	.17	**.78**	-.02	.01
Willing to Take Risk	.16	**.56**	.13	-.14
Complexity				
Difficult to Learn PC Use	-.02	.01	.08	**.83**
Intimidating to Learn PC Use	.03	-.01	.13	**.86**
Frustrating to Learn PC Use	.12	.04	.07	**.82**
Advantages				
Computer Literacy Needed at Work	**.59**	.42	-.09	.05
Computer Literacy Makes Work Easier	**.85**	.17	.003	.05
Computer Literacy Makes Life Easier	**.84**	.13	-.02	.03
Computer Literacy Offers New Opportunities	**.79**	.20	.03	.04
% Variance	26.4	18.8	12.5	9.3
Eigenvalue	3.69	2.64	1.74	1.31

Table 3 Likelihood for Accessing On-Line Services Features

	Very Likely %	Likely %	Somewhat Likely %	Unlikely %	Very Unlikely %	Mean	S.D.
Retail Goods Shopping	5.9	17.6	13.2	29.8	33.5	2.3	1.3
Grocery Shopping	5.2	13.4	11.2	35.5	34.8	2.2	1.2
Restaurant Booking	6.4	23.5	13.2	27.1	29.8	2.5	1.3
Travel Booking	12.7	31.7	15.7	18.0	21.9	3.0	1.4
Ticketmaster Services	13.5	33.7	15.5	16.0	21.2	3.0	1.4
Electronic Mail	20.9	30.1	10.9	18.7	19.4	3.1	1.4
Video Games Service	8.9	20.5	10.7	26.9	33.0	2.5	1.3
Yellow Pages Service	12.8	30.5	13.5	19.1	24.1	2.9	1.4
Accounting/ Taxes Filing	10.3	20.0	7.3	30.5	31.9	2.5	1.4
Banking Services	13.2	24.6	11.1	23.4	27.8	2.7	1.4
Finance/ Investment	11.4	24.1	10.0	27.5	27.1	2.7	1.4
Library Services	19.6	33.7	12.7	14.6	19.4	3.2	1.4
Encyclopedia Service	17.8	31.2	14.1	18.4	18.5	3.1	1.4
Home Security Services	16.0	26.2	10.2	23.9	23.7	2.9	1.4
Newspapers Services	6.8	17.6	12.8	29.2	33.5	2.4	1.3
Magazines Services	5.5	18.7	13.7	28.2	33.9	2.3	1.3
TV News Services	4.1	15.2	12.3	32.6	35.8	2.2	1.2
Sports News and Info	11.1	20.3	11.8	24.1	32.8	2.5	1.4
TV Guide and Content	5.5	14.1	9.4	28.0	43.0	2.1	1.3
Movie Releases and Reviews	6.1	24.2	16.0	23.9	29.8	2.5	1.3
Weather Information	13.9	32.1	14.4	17.3	22.3	3.0	1.4
Chat Line Services	4.6	14.4	12.8	32.4	35.7	2.2	1.2
Retail Ads Services	4.8	22.1	16.0	25.3	31.7	2.4	1.3

Table 4 Analysis of Variance for Comparing the Attributes between Adopters, Likely Adopters and Nonadopters

	Non-Adopters	Likely Adopters	Adopters	Contrast			Overall
	(G1) Mean	(G2) Mean	(G3) Mean	G1G2 p≤	G2G3 p≤	G1G3 p≤	F p≤
Needs and Resources							
Needs for Innovativeness	3.15	3.51	3.89	.000	.000	.000	.000
Resources	3.48	3.69	3.38	.036	.001	n.s.	.005
Demographic Background							
Education	2.97	3.60	4.03	.000	.005	.000	.000
Number of Children	.76	1.10	1.22	.052	n.s.	.002	.006
Income	2.60	3.17	3.92	.006	.000	.000	.000
Age	4.57	3.02	3.02	.000	n.s.	.000	.000
Gender	.37	.42	.52	n.s.	n.s.	.002	.007
Media Use							
TV Use	3.77	3.50	2.72	n.s.	.001	.000	.000
Radio Use	2.71	2.88	2.70	n.s.	n.s.	n.s.	n.s.
Newspaper Use	4.75	4.46	4.80	n.s.	n.s.	n.s.	n.s.
Magazine Use	2.57	2.88	2.95	n.s.	n.s.	n.s.	n.s.
Internet Use	2.26	2.98	2.71	.000	.004	.000	.000
Technology Ownership	5.84	7.91	11.05	.000	.000	.000	.000
Incentives							
Complexity	3.36	3.53	3.39	n.s.	n.s.	n.s.	n.s.
Advantages	3.09	3.80	3.93	.000	n.s.	.000	.000
Internet Use Motives							
Interaction	2.42	3.14	2.93	.000	n.s.	.000	.000
Surveillance	2.72	3.26	2.96	.000	.024	.037	.001
Escape	2.09	2.36	2.24	.010	n.s.	n.s.	.032
% of Total N:	22%	34%	44%				

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ENDNOTES

1. This tradition has uncovered a wide range of uses and needs served by media (Blumler, 1979; Levy, 1978; 1983; Rubin, 1981, 1983). In their seminal work, Katz, Gurevitch, and Haas (1973) identified the following five needs:
(1) cognitive needs, such as the need to understand; (2) affective needs strengthening aesthetic or emotional experience; (3) integrative needs strengthening one's confidence, credibility, stability; (4) needs relating to strengthening contact with family, friends and the world; and (5) needs related to escape or tension release (Jeffres, 1994, p. 247).

THE MYTH OF A TECHNOLOGICAL SOLUTION TO TELEVISION VIOLENCE: IDENTIFYING PROBLEMS WITH THE V-CHIP

A paper accepted for presentation in the Communication Technology and Policy Division of the Association for Education in Journalism and Mass Communication Annual Convention
Anaheim, California
August 1996

GREG MAKRIS
1521 E. Franklin St. A-102
Chapel Hill, NC 27514
(919) 918 - 3918
snowdog@email.unc.edu

Ph.D. Student
School of Journalism and Mass Communication
University of North Carolina at Chapel Hill
Research Assistant
National Television Violence Study
UNC-CH Center for Research in Journalism and Mass Communication

The Myth of a Technological Solution to Television Violence: Identifying Problems with the V-chip

Conceptually, the V-chip appears to be a viable means for effectively regulating the amount of violent and objectionable material that younger television viewers are exposed to. From a practical standpoint, however, the V-chip plan is wrought with a myriad of problems that may inevitably render the technology an ineffective method of program control. This paper attempts to both identify the principal legal, practical, economic and technical drawbacks of the V-chip, and assess the probability of the V-chip becoming a realistic interim solution to the ongoing problem of exposure of children and adolescents to television violence.

Overview

The problem of television violence is by no means a new issue. As early as the 1950s, legislators were calling on the broadcast industry to "clean up the house of television so that its occupants will not track any more dirt into our homes." For more than forty years, social scientists have examined the link between television violence and violent behavior.[1] During this period, more than three thousand scholarly research studies have concluded that a positive correlation exists between viewing television violence and acting violently or aggressively.[2] Research has also shown that viewing television violence may have other detrimental effects, including increasing feelings of fear of and/or desensitization to real world violence.[3]

For many prominent social science researchers, the strong correlation between violent programming and violent behavior is unquestionable. "The scientific debate," according to L. D. Eron, "is over."[4] John Wright called the link "indisputable," noting that "The convergence of evidence assures even skeptical scientists that watching violent television causes violent behavior."[5] John Murray added that "one must not dismiss the extensive, cumulative evidence of potential harmful effects associated with viewing violence in film, video and television."[6] George Gerbner declared that "To say there is no proof, that there is no direct cause and effect from violence in television to violence in life is essentially a disingenuous distraction."[7]

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[1] John Murray, "Children and Television Violence," *The Kansas Journal of Law and Public Policy*, Spring 1995, p 7.

[2] George Comstock & Victor Strasburger, "Media Violence: Q & A," *Adolesc. Med. State Art. Rev*, 4:495-509, 1993, p 496.

[3] Ibid., p 502.

[4] L. D. Eron, *The Problem of Media Violence and Children's Behavior*, New York, Guggenheim Foundation, 1993.

The prevailing conclusions of researchers have recently lead to increased demands by political leaders to regulate violence levels in television programming. In March of 1993, the Surgeon General's Committee stated that "the causal relationship between televised violence and antisocial behavior warrants appropriate and immediate remedial action."[8] Shortly thereafter, in October of 1993, Attorney General Janet Reno testified in a Congressional hearing that government regulation of television violence was both legal and justified, and would be initiated if the broadcasting industry did not clean up its own act.[9]

Concerns over television violence focus primarily on children and adolescent viewers, who are considered highly susceptible to television's influence.[10] These concerns have led to several attempts by the federal government to construct broadcasting policies that would limit the exposure of younger viewers to violent programming.[11] Generally the government's efforts have been poorly enforced,[12] and have not been able to withstand claims of constitutional violations.[13] In an effort to adopt a new regulatory policy that both limits the amount of violence accessible to younger viewers, and fends off claims of First Amendment restrictions, U.S. Representative Ed Markey (D- Mass.) and Senator Kent Conrad (D- N.D.) proposed a "Parental Choice in Television" (or "V-chip") Amendment as a component of the multi-faceted 1995 Telecommunications Competition and Deregulation Act, S. 652.[14]

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[5] John C. Wright, "Child Viewers, Television Violence, and the First Amendment," *Kansas Journal of Law & Public Policy*, Spring 1995, p 33.

[6] John P. Murray, "The Impact of Televised Violence," *Hofstra Law Review* 22:809, 1994, p 825.

[7] George Gerbner, "There is No Free Market in Television," *Hofstra Law Review* 22:879, 1994, p 883.

[8] John Windhausen, "Congressional Interest in the Problem of Television and Violence," *Hofstra Law Review* 22:783, 1994, p 783.

[9] *News Media and the Law* (author omitted), Winter 1994, p 38-40.

[10] Comstock, "Media Violence," p 495.

[11] Examples include the Family Viewing Policy (1975) and the Children's Television Act of 1990.

[12] William Banks Wilhelm, Jr., "In the Interest of Children: Action For Children's Television v. FCC Improperly Delineating the Constitutional Limits of Broadcast Indecency Regulation," *Catholic University Law Review* 42:215, 1992, p 218.

[13] Writers Guild of America, West v. FCC, 423 F. Supp. 1064 (C.D. Cal. 1976).

The V-chip

The V-chip Amendment, which was approved by the Senate in July and the House in August of 1995, and was subsequently signed into law as part of the new Telecommunications Act by President Clinton in February of 1996, mandates that all new television sets over 13 inches in screen size must be manufactured with the necessary circuitry to allow viewers to block specific programs that contain highly "objectionable" content. The V-chip is designed primarily to give parents the opportunity to screen out programming for their children that is considered to be "excessively violent or otherwise objectionable."[15]

In theory, signals from broadcasters and cable companies would be sent out along with individual programs that indicate the level of violence or otherwise objectionable material that each program contains. The ratings will travel along the same vertical blanking interval that is currently used to deliver closed captioning to television sets.[16] When the circuitry in individual sets is engaged, programs that carry violent or objectionable material will be effectively "blocked." Consumers would be able to initiate program blocking by simply keying in a code on a small supplemental remote control. Ideally, the plan would allow for several levels of violence or indecency ratings, so that individual parents can select the level of material that they consider to be appropriate for their children's viewing.[17] The system would also be able to block out specific time slots, pre-selected programs and/or entire channels.

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[14] The House version of the legislation is H. R. 2030.

[15] The guidelines are set forth as part of an Amendment to Section 330 of the Communications Act of 1934 (47 U.S.C. 330).

[16] Jeffrey Krauss, "The V-chip Ratings Controversy," *Capital Currents*, Dec. 4, 1995, p 1.

[17] Ginia Bellafante, "Locking Out Violence: Support Grows for the V-chip as a Way to Protect Young Viewers," *Time*, July 24, 1995, p 64.

Identifying Problems with the V-chip

In conjunction with the new legislation, the federal government has asked the broadcast and cable television industries to develop a system of ratings that would categorize individual programs by content, with the most violent or objectionable programming subject to being blocked or "censored" when and if the V-chip "switch" is activated.[18] Initially, the Amendment was also drafted with a clause that stated if the television industry fails to develop and implement such a system within one year, the government would be authorized to appoint a special public interest commission to set up and implement the ratings guidelines and then impose them on the industry. However, in order for the final version of the Amendment to be approved, the language of this stipulation was relaxed to preclude the government from actually having the legal authority to force the adoption of the ratings system on the television industry (though they certainly may still exert extensive political pressure on the industry to comply with the guidelines).

Proponents of the V-chip support the Amendment on the grounds that it empowers parents to gain a measure of control over the television content that their children are exposed to. They suggest that it is a reasonable solution for protecting children from excessively violent programs, while preserving the free speech rights of the broadcasting and cable industries.

Critics adamantly disagree with this assessment. They argue that because the legislation essentially imposes (at least through political pressure) a ratings system on the broadcast industry, it will inevitably lead to indirect "censorship" of certain television programming, in violation of the First Amendment. They also suggest that the legislation carries a variety of other problems, including numerous logistical complications, that are likely to greatly inhibit the overall effectiveness of the program-blocking technology.

The purpose of this paper is to identify the fundamental problems associated with the V-chip legislation, and then determine if the plan is likely to overcome its major obstacles and emerge as a realistic solution to the ongoing problem of exposure to television violence.

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[18] The specific details regarding how and which programs will be blocked is currently being debated by legislators, technical engineers, and representatives of the television industry.

Identifying Problems with the V-chip

Previous analyses

Because the V-chip concept is relatively new, researchers have yet to conduct an extensive evaluation of its possible effects or effectiveness. Previous analyses have been limited to brief discussions of either the potential legal implications of the plan, practical considerations related to the V-chip, various economic effects of implementing the plan, or technical limitations of the V-chip instrument. In general, opinions appear to vary regarding the major issues at hand. However, most analysts seem to agree that the new V-chip legislation is riddled with possible drawbacks and limitations.

Legal discussions of the V-chip have primarily involved assessing the constitutional status of the policy. Researcher David Kopel, in a recent article on media violence and the First Amendment, suggested that technological devices such as the V-chip "would not likely violate the First Amendment."[19] He noted that such devices don't "seem" to violate the constitutional rights of broadcasters because of other similar technological policies[20] that have withstood legal challenges.[21]

In stark contrast, Attorney Robert Corn-Revere declared in an August, 1995 Cato Institute briefing paper that the V-chip policy is clearly unconstitutional.[22] His contention was based on the fact that the policy basically forces the establishment of a ratings system for programming, which has been patently rejected by the courts as "unbridled censorship" in previous cases involving other media (such as motion pictures).[23] He also warned that there would be nothing "voluntary" about a government-imposed system that compels broadcasters to comply with its guidelines within one year or else surrender editorial control to a public interest group.[24]

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[19] David Kopel, "Massaging the Medium: Analyzing and Responding to Media Violence Without Harming the First Amendment," *The Kansas Journal of Law and Public Policy*, Spring 1995, p 21.

[20] Such as the 1990 Television Decoder Circuitry Act (for closed-captioning).

[21] Kopel, "Massaging the Medium," p 21.

[22] Robert Corn-Revere, "'V' is Not for Voluntary," *Cato Institute Briefing Paper #24*, August 3, 1995.

[23] Ibid.

[24] This argument provides an indication of why the government may have relaxed the language of the Amendment and backed away from its original plan to force the television industry to develop and implement the ratings system.

Identifying Problems with the V-chip

Legal scholar Steven Kim suggested that the real test of the constitutionality of the legislation will be how the courts view the labeling of individual programs.[25] If the courts view labeling as restrictive based on content, they will not likely accept such a policy. Conversely, if they view the labeling as informational and offering more freedom for viewers, than the legislation will likely withstand constitutional scrutiny. How the courts will decide, according to Kim, is "unclear."[26]

From a practical standpoint, Kim also noted the inevitable difficulty in defining "violence," and developing a system of ratings that satisfies every individual's conception of what "violent" or "objectionable" content is.[27] FCC Commissioner Andrew Barrett, in a University of Kansas Technology Panel Keynote Address, emphasized the "subjectivity" of establishing a violence ratings system. He also indicated that "violence to one person may not be violence to another."[28]

With regard to economic considerations, *Mediaweek's* Alicia Mundy pointed out that the new policy may have a detrimental financial and creative effect, as programs that receive high violence or indecency ratings will be automatically blocked out of at least some homes.[29] This could result in certain programs losing their advertising support, which may ultimately force producers to adjust the content of individual shows in order to keep them from being "censored" and subsequently ostracized by the advertising industry.[30]

From a technological perspective, in recent issue of *National Review*, Lewis Andrews noted that the V-chip approach utilizes both an outdated ratings method and a technology with limited capacity and applications.[31] He suggested that the single scale rating system that the government hopes to employ has never been effective in regulating the motion picture industry, and that it doesn't

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[25] Stephen Kim, "Viewer Discretion is Advised: A Structural Approach to the Issue of Television Violence," *University of Pennsylvania Law Review* 142:1383, 1994.

[26] Ibid.

[27] Ibid.

[28] Andrew Barrett, "Reflections on Television Violence and Regulating New Technologies," *The Kansas Journal of Law and Public Policy*, Spring 1995, p 105.

[29] Alicia Mundy, "The Unifying Effect of Smut," *Mediaweek*, July 24, 1995, p 16.

[30] Ibid.

[31] Lewis Andrews, "Private Ratings," *National Review*, September 25, 1995, p 80.

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account for differences in the standards of individual parents.[32] He added that the proposed chip cannot be upgraded to block out material from various other new communications technologies such as the Internet and satellite broadcasts.

Other technical problems also exist. Several authors have even claimed that the actual technology for the V-chip either does not yet exist,[33] or that no company has expressed interest in developing it.[34] These claims are, however, refuted by several manufacturers, as well as other organizations that have pilot-tested the V-chip in Canada.[35]

National Association of Broadcasters Government Relations Vice President Steve Jacobs provided a rather dystopic summary of the V-chip in *Television Digest*. He declared it to be "unnecessary, probably unworkable, and certainly unconstitutional."[36] He added that "This is a hammerlock...It's pure and simple coercion."[37]

The previous literature has raised a number of individual questions relating to implementation and enforcement of the new V-chip legislation. However, these analyses have stopped short of providing a comprehensive evaluation of all of the significant hurdles that the V-chip Amendment is currently facing.

Current Research

The aim of the current study is to bring together facts and information from previous V-chip analyses in order to identify and outline all of the primary legal, practical, economic and technical problems that the V-chip Amendment is facing, and then address the basic question of how these problems might affect the relative success of the adoption of the V-chip plan.

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[32] Ibid.

[33] Kevin Maney, "Democrats: V-chip Not a Myth," *USA Today*, August 14, 1995, p B4.

[34] Michelle Quinn, "V-chip Still Only a Vision," *San Francisco Chronicle*, July 28, 1995, p B1.

[35] Clyde H. Farnsworth, "Canada Likes TV Violence Chip to Block," *The New York Times*, February 28, 1996.

[36] "Experts Tackle V-chip" (author omitted), *Television Digest*, 35:35, 1995, p 4.

[37] Ibid.

Identifying Problems with the V-chip

Method. In order to create a more comprehensive overview of the V-chip, the content of numerous previous articles relating to the V-chip were reviewed and all pertinent issues were identified and categorized. Specific details of each issue were analyzed and then synthesized with the opinions of legal scholars, technical specialists, and social science researchers. By combining information from all available resource materials, it was anticipated that a thorough and concise description of the problems associated with the V-chip would be developed--allowing for a more accurate assessment of the probable degree of success of the V-chip policy.

Legal Problems

The central legal issue that the V-chip raises is the degree of authority that the government has to regulate television content for the sake of the "public interest."[38]

The U.S. Supreme Court's interpretations of constitutional freedoms for electronic media have not historically been as protective[39] as they have been for print media[40] or the motion picture industry.[41] Previous concerns over such issues as spectrum scarcity and the pervasiveness of broadcasting have led to the adoption of more restrictive policies regarding broadcasters' First Amendment rights.[42] These concerns have also justified demands for public service by broadcasters in return for license renewal.[43]

Broadcasters had originally sought a regulatory vehicle to control the allocation of publicly-owned frequencies. The resulting Communications Act of 1934[44] mandated that the Federal Communications Commission must regulate broadcasting in a manner that will promote "the public interest, convenience and necessity."[45] Implicit in this regulation was the right of federal officials to review content when evaluating performance and license renewal.[46] This right, however, did not include permitting the government to censor programming.[47] In fact, the Act specifies that "no regulation shall be promulgated or fixed by the commission which shall interfere with the right of free speech by means of radio communication."[48]

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[38] 47 U.S.C. 151 (1988).

[39] National Broadcasting Co. v. United States, 319 U.S. 190 (1943).

[40] Miami Herald Publishing Company v. Tornillo, 418 U.S. 241 (1974).

[41] Interstate Circuit, Inc. v. Dallas, 390 U.S. 676, 678-81 (1968).

[42] Red Lion Broadcasting Company v. FCC, 395 U.S. 367 (1969).

[43] FCC v. Pacifica Foundation, 438 U.S. 726 (1978).

[44] Pub. L. No. 73-416, 48 Stat. 1064 (which followed and repealed the Federal Radio Act of 1927, Pub. L. No. 69-632, 44 Stat. 1162).

For the V-chip, this philosophy raises serious questions regarding the authority of the government to pressure the television industry into establishing program ratings that will inevitably lead to at least some blocking or indirect "censorship" of individual programs. A ratings system does indeed provide useful information to prospective viewers. However, if the Court views the implementation of a ratings system as government-induced (i.e. a "state action"),[49] and these ratings eventually lead to partial censoring of particular programs or images,[50] they may very well conclude that the government has overstepped their established legal authority to regulate television content.

Spectrum scarcity rationale. Historically, the Supreme Court has ruled that "Because of the scarcity of radio frequencies, the Government is permitted to put restraints on licensees," that the public has the "collective right to have the medium function consistently with the ends and purposes of the First Amendment," and that "It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."[51] It has also been noted that "A broadcaster seeks and is granted

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[45] 47 U.S.C. 303.

[46] Charles D Ferris & Terrence J Leahy, "Red Lions, Tigers and Bears, Broadcast Content Regulation and The First Amendment," *Catholic University Law Review* 38:299, 1989, p 310.

[47] 47 U.S.C. 326 (1982)

[48] 47 U.S.C. 303, p 109 (codified as amended at 47 U.S.C. 326 (1988).

[49] It should be noted that state action is likely to be found in this case because the government has also suggested that the allocation of free spectrum for digital broadcasting will hinge on industry acceptance of a ratings system. Matthew Spitzer and Robert Corn-Revere, speaking at the Conference on Media Violence and Public Policy, Duke University, June 29, 1996.

[50] It could certainly be argued that because program blocking is initiated by consumers, the process may not be viewed as "censorship." However, the V-chip device also has a function that allows for blocking of all non-rated programs. Thus, if specific producers elect not to rate their programs, they may be blocked at the receiving end even if they contain no violence.

[51] Red Lion v. FCC.

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the free and exclusive use of a limited and valuable part of the public domain: when he accepts that franchise it is burdened by enforceable public obligations."[52]

More recently, however, the legitimacy of the spectrum scarcity argument has been brought into question. "It is certainly true that broadcast frequencies are scarce but it is unclear why that fact justifies content regulation of broadcasting in a way that would be intolerable if applied to the editorial process of the print media."[53] It has also been noted that "the foundation upon which content-based regulations rest has significantly eroded. The spectrum scarcity rationale today simply lacks validity given the wide range of media outlets."[54]

In the case of the V-chip, it is not likely that the spectrum scarcity rationale can be used by the government to justify a program-blocking policy for broadcasters, as the scarcity argument has all but been abandoned by the Court due to the development of various new communication delivery technologies such as digital compression and direct broadcast satellites. In addition, the scarcity rationale may not hold as a legitimate issue in this particular case because the Amendment also attempts to outline rules for the cable television industry and cable networks, which are not generally as constrained by the technical consideration of spectrum scarcity.

Pervasiveness rationale. The Supreme Court has also previously justified content-based regulatory policies on the basis of broadcasting having a "pervasive presence" in the lives of citizens.[55] The Court has further indicated that children should merit special consideration in that "the ease with which children may obtain access to broadcast material" justifies "special treatment."[56]

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[52] Office of Communication of United Church of Christ v. FCC, 359 F.2d 994, 1003 (1966).

[53] Telecommunications Research & Action Center v. FCC, 801 F.2d 501, 508 (D.C. Cir.), reh'g en banc denied, 806 F. 2d 1115 (D.C. Cir. 1986).

[54] Jonathan O Hafen, "A Distinction Without Difference--The spectrum Scarcity Rationale No Longer Justifies Content-Based Broadcast Regulation," *B.Y.U. Law Review* 1141, 1991, p 1149.

[55] FCC v. Pacifica Foundation.

[56] Ibid., p 749.

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Identifying Problems with the V-chip

The Court has on several occasions stated that "a state's interest in 'safeguarding the physical and psychological well-being of a minor' is 'compelling',"[57] and that the government has a legitimate interest in supporting parental authority over the home.[58] However, the Court has also stated that the language of the First Amendment is "Absolute," and that no competing interest should ever outweigh First Amendment values.[59]

Additionally, the Court has noted that "The government may, however, regulate the content of constitutionally protected speech in order to promote a compelling interest if it chooses the least restrictive means to further the articulated interest."[60] This raises the difficult question of whether a violent program-blocking system can be rationalized as the "least restrictive means" of protecting younger viewers while preserving the rights of broadcasters.

Arthur Eisenberg points out that the outcome may hinge on the dilemma of defining "violence." He notes that "violence remains a highly subjective matter, and it is unlikely in the extreme, that any satisfactory definition can be employed...that will satisfy the First Amendment requirement of precise regulatory enactments."[61] Indeed, it would be nearly impossible to derive a concise definition for violence that appeases the tastes all parents, politicians and industry leaders. It is therefore quite probable that any mutually satisfying definition for violence would have to be rather broad in nature, and such a definition may ultimately be considered by the Court to be "over-broad" or "too restrictive" and therefore not constitutionally enforceable.

Previous policies. Several previous attempts have been made to regulate programming for children, although each effort has inevitably met with failure due a variety of legal and/or logistical complications. The National Association of Radio and Television Broadcasters established the first

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[57] Osbourne v. Ohio, 495 U.S. 103, 109 (1990).

[58] Ginsberg v. New York, 390 U.S. 629, 640 (1968).

[59] Barenblatt v. United States, 360 U.S. 109, 140-44 (1959).

[60] Sable Communications of Cal., Inc. v. FCC, 492 U.S. 115 (1989).

[61] Arthur Eisenberg, "The Hollings Bill: Unconstitutional Under the First Amendment," *Hofstra Law Review* 22:793, 1994, p 797.

"Television Code" in 1952.[62] The "code," which outlined programming rules and ethical guidelines for all television broadcasters, remained in place for several decades before being abandoned as outdated and impractical in the early 1970s. In 1974, the Family Viewing Policy was adopted as a voluntary approach to improve television content. However, because it was only "voluntary" no improvements were ever made and eventually the policy was abolished as part of the 1984 Deregulation Order.[63] A revised plan of regulations for children's television was later proposed but was vetoed by then-President Ronald Reagan.[64]

A more recent attempt by the FCC to legislate programming regulations in order to protect children from exposure to "indecent" programming during peak viewing hours[65] met with strong resistance from a coalition of broadcasters and was eventually ruled unconstitutional[66] for being "over-broad" and using a definition of "indecency" that was "unconstitutionally vague."[67] A similar effort by the government to establish a protective regulatory policy[68] and institute a twenty-four-hour-ban on indecent programming was also rejected by the courts.[69]

These cases reinforce the difficulty of establishing an acceptable regulatory policy that both protects children and the Constitutional rights of broadcasters. Protective regulations may appear to have only a minimal effect on actual program content, but implementing such policies could eventually lead to many programs being reduced to having only content that is acceptable for children.[70] Striking a balanced agreement that protects the interests of all involved parties has historically proven to be simply impossible to achieve and/or maintain, and could prove to be as elusive in this particular case.

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[62] Murray, "Television Wipes its Feet," p 128.

[63] 98 F.C.C. 2d 1076 (1984).

[64] Action For Children's Television v. FCC, 821 F.2d 741 (D.C. Cir. 1987).

[65] The Children's Television Act of 1990.

[66] Action For Children's Television v. FCC, 11 F.3d 170, 177-179 (D.C. Cir. 1993).

[67] Ibid., p 1334.

[68] The Helms Adult Radio Amendment, Pub. L. No. 100-459, 608, 1989 U.S.C.C.A.N. (102 Stat.) 2186, 2228 (1988).

[69] Act for Children's Television v. FCC, 932 F.2d 1504 (D.C. Cir. 1991), cert. denied, 112 S. Ct. 1281-82 (1992).

[70] Richard Zoglin, "Chips Ahoy," *Time*, February 19, 1996, p 60.

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Differences. It should also be noted, however, that the V-chip Amendment does have some fundamental differences from previous failed regulatory policies. The plan requires no initial content-based programming decisions by broadcasters, unlike the "indecency" time restrictions. It instead attempts to offer the viewer the opportunity to selectively block undesirable programs.[71] The V-chip legislation also is designed primarily to reduce the amount violence that children view on television. The relationship between viewing violence and behaving violently is supported by much more empirical evidence than the link between indecency and antisocial behavior that guided the establishment of several previous failed regulatory policies.

Nevertheless, the Court has indicated that, "above all else, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content...Our people are guaranteed the right to express any thought, free from government censorship. The essence of this forbidden censorship is content control."[72]

David Kopel argued that one of the problems with regulation is that "No matter how compelling the academic evidence detailing the harm of television, nothing justifies censorship...it is unjust to censor entertainment for a huge majority of Americans because a small fraction of the population reacts inappropriately."[73] Arthur Eisenberg added that speech is often offensive, but that "if the capacity of speech to influence people in unspecified yet undesired ways becomes the basis for censorship, then we might as well abandon the First Amendment and allow government to decide what speech is good for us and what speech is not."[74] John Wright concluded that "there is nothing quite as important as our legal system, as relevant to the development of a child's mind, as the notion of free speech."[75]

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[71] Although the issue of who ultimately determines what is undesirable remains a point of contention.

[72] Police Department of Chicago v. Mosley, 408 U.S. 92 (1972).

[73] Kopel, "Massaging the Medium," p 20.

[74] Eisenberg, "The Hollings Bill," p 797.

[75] Wright, "Child Viewers," p 33.

Identifying Problems with the V-chip

The free speech arguments provide a compelling example of the difficulty the V-chip Amendment will encounter if it is challenged on constitutional grounds. The plan appears to have a limited effect on broadcasters' First Amendment rights. However, the immediate effects on programming decisions could be significant, and the long-term effects on programming content could be profound. If the policy eventually forces producers to produce only non-violent content, it may be viewed as an unjustified abridgment of their right to free speech/expression. The ramifications of this possibility are further discussed from a practical and economic perspective in the next two sections.

Practical Problems

Defining violence. Perhaps the most perplexing aspect of the V-chip Amendment is the requirement that a single, concise, universal definition of "violence" must be adopted. Carl Ramey noted that during the forty years of debate regarding government regulation of program content, no one has been able to agree on exactly what constitutes violence.[76] He suggested that some violence is viewed as acceptable because it is either essential to a story line, or realistically depicts history or real-life conflict. He also added that violence occurs in a variety of contexts, including news and sports, and that indiscriminate blocking of programs based on a single standard definition of violence would invariably be too "over-broad."[77]

In addition to these concerns, some politically sensitive, yet socially important programs, such as those pertaining to domestic abuse, may be forced to carry "violence" tags and consequently may not be watched by audiences that could be most helped by them.[78]

Another problem with establishing a single definition of violence is that it makes "the question of impermissible violence highly subjective; violence to one person may not necessarily be violence to another."[79] Such an approach also inhibits parental responsibility, as parents ultimately will only have "the ability to tune out programs deemed by the government (or the television industry) to be unfit for family viewing."[80] It has been suggested that "rather than empower(ing) parents, the system would deprive parents of the power of selection, discrimination and choice,"[81] and that a "single-scale system boils down to little more than being able to select the decibel level for whatever kind of sociological thinking happens to shape the current ratings classification."[82] The problem is further accentuated by the fact that legislators have been "unable to agree among themselves" exactly how to define violence, leaving little hope for a "consensus with the audience in whose interest they presume to act."[83]

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[76] Carl Ramey, "In the Battle Over TV Violence, The Communications Act Should Be Cheered, Not Changed," *F.C.L.J. IULAW* (Internet/Netscape), 1995.

[77] Ibid.

[78] "Experts Tackle V-chip," p 124.

A recent *American Spectator* article summed up the problem by declaring that "there is not the slightest chance that broadcasters will, or can, develop a uniform rating code. There are more than 11 million hours of television programming each year in the U.S., and no single ratings system could apply to all of them."[84]

Rating programs. The fact that so many hours of television programs are produced raises another practical question. Even if an objective rating standard is established, how will it be realistically applied to the plethora of television programs that are currently produced? Writer's Guild West President Del Reisman has pointed out that may programs aren't delivered until just before air time, making rating "virtually impossible."[85] This is particularly true for independent stations, as most of their programming is received through syndication.[86] An even more complicated (and probably impossible) task would be coding live programming--such as news broadcasts that feature unfolding dramatic events, or sporting events that include graphically violent confrontations. In addition, every

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[79] Barrett, "Reflections on Television Violence," p 105.

[80] Corn-Revere, "'V' is Not for Voluntary," p 1.

[81] "Networks Oppose Violence Chip" (author omitted), *Television Digest*, June 28, 1993, p 1.

[82] Andrews, "Private Ratings," p 80.

[83] Corn-Revere, "'V' is Not for Voluntary," p 4.

[84] Cited from Lucy Tigger, *The U.S. Congress and Porn on the Internet* (Internet/Netscape), September 15, 1995.

[85] "Networks Oppose Violence Chip," p 1.

[86] Ibid.

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television station and network currently has an extensive inventory of older programming in their archives. In order for the V-chip to work thoroughly, broadcasters would have to address the monumental task of rating the thousands of programs that they are currently storing.[87]

Once programs are rated, there would also be a need to establish some type of appeals process for those who feel that their programs have been unfairly or incorrectly labeled. Given the current climate of litigation in the U.S., such a process is likely to be almost immediately overwhelmed with claims by disenchanted producers that their programs have somehow been misinterpreted and mis-coded by the appointed ratings council.

If ratings are successfully applied to programs, many television industry representatives fear that what will then follow is an immediate "chilling effect." Capital Cities/ABC Chairman Thomas Murphy warned that "coding controversial programming (would) tend to drive it off television...Blocking technology might thereby become part of a generalized assault on the diversity and variety of television programming."[88] ACLU representatives added that "We have real problems with any attempt by the government to curtail ideas presented on television..."[89]

In contrast to this idea, Steven Kim suggested that the real problem with rating is not censorship of programming, but that the procedure actually fails to curtail violent programming at the industry source. He pointed out that "the back-end content-based approach of labeling (rating) holds only limited promise in addressing the structural causes for the production of violent material."[90] Kim's reasoning is reinforced by legal scholar Julia Schlegel, who hinted that the main drawback of a technical device is that rather than censoring programming, it actually doesn't limit the amount of violence that broadcasters show.[91] It may, in fact, encourage them to show more violence, as the industry could conceivably justify increases in violent content by arguing that the V-chip protects those who don't want to be exposed to objectionable programming.[92] According to Schlegel, the real dilemma of such a policy is motivating parents to control what their children watch.[93]

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[87] Krauss, "The V-chip Ratings Controversy," p 2.

[88] "Networks Oppose Violence Chip," p 1.

[89] Rob Dreher, "Simonizing the Tube: Senator Calmly Sets His Sights on Controlling Violence on TV," *Washington Times*, August 1, 1993, p D1.

[90] Kim, "Viewer Discretion is Advised," p 1383.

[91] Julia Schlegel, "The Television Violence Act of 1990: A New Program For Government Censorship," *Federal Communications Law Journal* 46:187, 1994, p 214.

Parental enforcement. Beyond the problems associated with defining violence and coding individual programs, the V-chip plan cannot be effectively implemented without the active participation of parents. John Windhausen warned that "as much as we would like to think that parents will be the solution, society is increasingly finding out that they are not...(as) sixty to seventy percent of children in the inner city are without parental supervision."[94] The V-chip will be of little value in homes where children are "neglected or ignored by their parents, or who have no parent in the home. In such cases, there is no one to (purchase or) implement a lock-out device."[95] Unfortunately, it is also likely that "These children are most at risk of becoming violent criminals."[96]

In many instances "parents might be unwilling or unable to supervise their children's television viewing even if the means to do so were readily available."[97] In some of these cases, ratings may simply provide children with a "faster road map to violent material."[98]

Even if parents are interested in adopting the technology, enforcement problems exist. Electronic Industries Association (EIA) Vice President Gary Shapiro pointed out that the V-chip planners assume that parents are more technologically adept than their children, and will be able to effectively control their children's viewing.[99] Such an assumption may not hold true. Programming of the chip will have to be done through the use of a small accompanying remote control that parents must learn to successfully negotiate and then effectively hide from their children. Even if they do manage to accomplish this rather cumbersome task, some Canadian V-chip tests have revealed that most experimental chips could be controlled with virtually any remote that children can get their hands on.

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[92] A perfect example of this can be found within the motion picture industry, where films have become much more graphically violent since the inception of voluntary MPAA (Motion Pictures Assoc. of America) ratings.

[93] Ibid.

[94] Windhausen, "Congressional Interest," p 789.

[95] Kopel, "Massaging the Medium," p 21.

[96] Ibid.

[97] Schlegel, "The Television Violence Act of 1990," p 214.

[98] Ibid., p 210 (quoting Terry Rakolta, founder of Americans for Responsible Television).

[99] "Networks Oppose Violence Chip," p 3.

Additionally, if parents do decide that they wish to adopt the technology, they must first purchase a television that contains the V-chip circuitry, or buy some type of external V-chip decoder box.[100] While V-chip advocates promote the chip as costing only about one dollar, critics have countered that "All you have to do is buy this $500 television set, and it (the chip component) is a dollar. It's a steal!"[101]

Economic Problems

Cost of the V-chip. Those who support the V-chip claim that it will only add a nominal amount[102] to the actual cost of a new television set. However, as previously alluded to, obtaining the technology would require purchasing a new television set (or a separate, not-yet-available V-chip decoder box). With the average U.S. home having 2.9 TVs, effective implementation of the chip would likely require the replacement of multiple sets (or at least the acquisition of several decoder boxes). This could prove to be a rather expensive and unreasonable proposition for most families. CBS Senior Vice President Martin Franks pointed out that most families will simply be unwilling to replace all of their TVs. He commented that "Short of chaining the children to the sofa in the room in which the V-chip-equipped set is located, I don't know how this proposal is going to work."[103]

In addition, EIA representatives noted that two-thirds of American households have no children under 18 years old, and 80% of U.S. consumers will have no interest in purchasing the V-chip technology.[104] EIA also suggested that with the hundreds of millions of TV sets currently in use in the

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[100] Though not yet available, there are plans to develop and market external V-chip boxes at a cost of approximately $50 per box. Tim Collings (V-chip inventor), personal communication, June 28, 1996.

[101] Ibid., p 1 (quoting NAB's Govt. Relations VP Steve Jacobs).

[102] Estimates range from $1 to $40. Andrews, "Private Ratings," p 8.

[103] Bellafante, "Locking Out Violence," p 64.

[104] "EIA Treads Lightly on V-chip Issue" (author omitted), *Television Digest*, February 7, 1994, p 16.

U.S., it would take "decades" for any appreciable effect of implementing the V-chip to occur.[105] The plan would ultimately create an unnecessary and unwanted economic burden for the vast majority of new television purchasers. EIA contended that such a device should therefore not be required on all new television sets (as is currently mandated in the Amendment), and instead should be an option.[106]

Effects on advertising revenue. Along with increases in the per unit cost of television sets for consumers, the V-chip could have an irreversible financial impact on the television industry and its principle advertisers. Stephen Kim argued that the labeling procedure mandated by the Amendment could have a detrimental effect on how the public perceives programs with "violent" or "objectionable" ratings. He cited the self-imposed motion picture ratings system as an example of how specific movies, that may have some redeeming content, are frequently relegated to a position of public disdain (and ultimately poor revenues) because of industry-imposed ratings.[107]

Broadcasters have claimed that the implementation of a ratings code will "create a violence 'blacklist' for advertisers."[108] Their contention is that if programs receive violent ratings, and are subsequently blocked out of some homes, advertisers will no longer be willing to sponsor such programs.[109] The immediate effect of such a policy would be financial losses, while ultimately the "blacklist" could lead to a "chilling effect" on the entire creative process.

Congressional supporters of the V-chip have indicated that a drop in advertising support for violent programming is actually one of the underlying goals of the Amendment. In their view, if broadcasters can't sell advertising on violent programs, they might not produce as many.[110] Industry representatives, lead by CBS's Howard Stringer, countered this sentiment by reminding Congressional leaders that the television system in the U.S. is "free" and depends almost exclusively on advertising support for survival.[111] Given the fragile balance that perpetually exists between ratings performance and subsequent ad revenue, an advertising "boycott" could potentially send some portions of the industry into an economic tailspin that would inevitably have at least some detrimental effects on all programming services that producers seek to deliver.

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[105] Ibid.

[106] Ibid.

[107] Kim, "Viewer Discretion is Advised."

[108] Cheryl Heuton, "Dorgan Targets TV Violence," *Mediaweek*, May 15, 1995, p 8.

[109] Bellafante, "Locking Out Violence," p 64.

[110] "Networks oppose V-chip," p 2.

Technical Problems

Developing the chip. Assuming that the V-chip Amendment is able to pass constitutional scrutiny, and that the numerous problems associated with defining and coding violence are resolved, and that parents will be interested in the technology and can afford to purchase it, it remains to be seen whether the V-chip is even technically feasible. Mitsubishi Television once declared the V-chip to be a "myth."[112] Reporter Michelle Quinn added that no company currently makes, or is interested in making the chip.[113] At a July, 1995, Congressional Hearing, a Zenith V-chip prototype failed to respond properly to violence warning signals.[114] In more recent demonstrations[115] and Canadian home tests[116] sample V-chip devices did appear to engage properly. Nevertheless, it certainly appears legitimate at the present time to question whether the V-chip can be successfully manufactured on a mass-scale.

Several companies have recently indicated that they are working on developing a V-chip. Sybase Technology claims to be investing "hundreds of millions of dollars" along with other companies in the development of program blocking devices.[117] Zilog, Inc., claims to have already developed a usable V-chip that meets EIA specifications for Line 21 Data Service.[118] Zenith

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[111] Ibid.

[112] Maney, "Democrats: V-chip not a Myth," p B2.

[113] Quinn, "V-chip Still Only a Vision," p B1.

[114] Mundy, "The Unifying Effect of Smut," p 16.

[115] A successful V-chip demonstration was conducted by inventor Tim Collings at Duke University on June 28, 1996.

[116] Ginia Bellafante, "So What's On in Tokyo," *Time*, February 19, 1996, p 61.

[117] "TV Violence, V-chip Get Washington Attention" (author omitted), *Television Digest*, July 17, 1995, p 3.

[118] *Zilog Unveils a Violence "V-chip" solution* (Press Release), August 21, 1995.

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Identifying Problems with the V-chip

Representative Wayne Luplow testified in front of Congress that all leading television manufacturers also now offer some form of time and channel-based block-out systems that give parents some measure of control and protection against specific objectionable programs and/or networks. Luplow added, however, that the voluntary efforts of the TV industry to develop such devices should render the mandate for V-chip circuitry on all new sets "unnecessary."[119]

Other technical considerations. The VBI "Line 21" that ratings will be carried on does not have the capacity to continuously broadcast the ratings signals. Therefore, if the channel is changed, the V-chip circuit will not be able to immediately block violent programs.[120] The device could take as much as 15 seconds to activate, leaving viewers momentarily exposed to at least some objectionable content. EIA has suggested that it had hoped to use line 21, part of the "extended data service" (EDS) system, for program identification service in conjunction with on-screen navigation systems and programming services.[121] The allocation of line 21 to the V-chip thus also hampers industry efforts to provide other valuable program information to prospective viewers.

The proposed method of using Line 21 for carrying signals has also been referred to by Lewis Andrews as an "antiquated approach."[122] Sybase Corporation's Paul Dawes added that "By forcing TV manufacturers to develop a chip that reads ratings encoded in the black bar of the broadcast signal, you're relying on (outmoded) analogue technology."[123] This will in effect force the entertainment industry to rely on outdated broadcast technologies well into the future. Andrews and Dawes suggested that newer digital technology would allow much more parental control over specific content, as decisions could be based on individual personal values rather than on an arbitrary single national standard.[124]

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[119] "Legislative Bandwagon Forms for V-chip" (author omitted), *Television Digest*, July 17, 1995, p 11.

[120] Krauss, "The V-chip Ratings Controversy," p 2.

[121] "EIA Treads Lightly on V-chip Issue," p 15.

[122] Andrews, "Private Ratings," p 81.

[123] Ibid., p 3.

[124] Ibid.

Other Problems

Among the various other problems that are associated with implementing the V-chip, it is also important to mention that there are still many researchers who refute (or at least question) the research results of previous studies linking television violence and antisocial behavior. Julia Schlegel has raised the question of whether television violence leads or is simply a reflection of societal behavior.[125] Todd Gitlin claims that the real problem we should be focusing on is actual violence, not television violence.[126] George Comstock has even suggested that violent programming may actually have a cathartic effect on some viewers, relieving the need for violent behavior.[127]

These views do not likely represent all or most of the public, but they do hint that the problem of violence is indeed more complex than the V-chip solution might suggest. At best, exposure to television violence is only one component in an incredibly complex matrix of variables that may lead to violent behavior. Biological, psychological and sociological factors likely play much greater roles in affecting individual behavior patterns. Certainly the V-chip Amendment was drafted as a noble gesture with worthwhile intentions, but unfortunately the application of the policy may not in fact address, to any significant extent, the very issues that are at the foundation of its development.

Summary of Key Points

Legal. The V-chip raises serious questions regarding the constitutional rights of broadcasters. While broadcasting has historically been granted limited First Amendment freedoms, the traditional "spectrum scarcity" rationale for regulating television may no longer be valid. "Pervasiveness" remains a justification for some broadcast regulation--particularly with regard to children. However, previous rules in the interest of children have been struck down by the courts as overly "vague" and "broad." Though the V-chip Amendment is fundamentally different than previous attempts at regulatory policy, its reliance on a single subjective definition of violence, coupled with its potential effect on television programming content, may ultimately render it vulnerable to constitutional challenges.

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[125] Schlegel, "The Television Violence Act of 1990," p 199.

[126] Todd Gitlin, "The Real Problem is Violence, Not Violence and Television," *Hofstra Law Rev.* 22:885, 1994, p 885,886.

[127] George Comstock & Eli Rubinstein, Eds., *Television and Social Behavior: Media, Content and Control*, 1972, p 22.

Practical. Arriving at a single satisfactory definition of violence may prove to be impossible, due to variations in individual interpretations of what constitutes violent or objectionable material. Contextual and format considerations further complicate the ratings process. Even if a mutually satisfying definition is developed, the task of coding the near-infinite amount of pre-existing, new and live programming may prove to be insurmountable. Potential appeals of ratings decisions raise an additional logistical challenge. Once coding is achieved, motivating parents to be actively involved in controlling programming selection becomes a difficult dilemma. It is likely that the children who most need protection from violent programming will be the least likely to receive it, due to parental apathy and neglect.

Economic. The cost of purchasing the V-chip may be prohibitive, as old televisions must be replaced, or decoder boxes must be acquired, in order to obtain the necessary circuitry. For many American homes this process would require purchasing several new sets or boxes. The vast majority of consumers have no interest in the V-chip, and would be forced to absorb additional costs (when they buy a new TV) for a technology that they neither want nor need. From an advertising standpoint, the V-chip may lead to the loss of ad revenue for more violent programs. Such programs may also be shunned by the public. Ultimately this may lead to changes in the content of programming, and suppression of creativity. Legislators support this possibility, while industry executives warn of detrimental effects of such restrictions on the financial stability of the country's now free broadcast TV system.

Technical. Some critics contend that the V-chip technology isn't currently available, and that no company wants to develop it. Others disagree, but argue that their developmental efforts should encourage legislators to abandon the "mandatory" guidelines of plan. Technical experts indicate that the ratings signals can be transmitted, on a limited scale through existing bands, but that such signals would be intermittent and would interfere with the delivery of other valuable programming information services. Other critics suggest that the V-chip uses an outdated technology, and will perpetuate the dependency on antiquated transmission methods well into the future.

Discussion

In theory, the V-chip appears to be a reasonable interim approach for restricting the amount of objectionable material that younger television viewers are exposed to. It enables concerned parents to block violent programs without inhibiting the rights of broadcasters to show violence, or the rights of other viewers to watch violence. The technology itself is of little additional cost to consumers, and can be implemented without affecting the quality of existing television signals.

The violence-blocking concept seems so viable that V-chip Amendment has even managed to secure bipartisan support in both the Senate and House.[128] FCC Chairman Reed Hundt has also voiced resounding approval for the legislation. Those who most strongly advocate the Amendment all point to the V-chip's ability to help create a violence-free, educational and information-rich television viewing environment for the nation's young audiences.

Despite the ideology behind the V-chip, however, and the numerous votes of support for the concept, in practice the V-chip appears to be inevitably doomed to failure--or at least minimal success. Even if the plan is able to survive constitutional challenges (which it may not), the logistical complications involved in implementing the technology appear to be almost insurmountable. The combination of establishing a workable definition, coding millions of programs, motivating parents to buy and use the device, protecting the economic interests of all those involved, and adopting the appropriate technological means for initiating and maintaining the V-chip appears to be just too problematic for effective administration or enforcement of the policy.

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[128] The Amendment was approved in the Senate by an 84-16 vote.

Identifying Problems with the V-chip

Suggestions. Many critics of the V-chip Amendment believe that television regulation is the wrong way to address the societal problem of violence. Peggy Charren notes that "government censorship is not the way to protect children from inappropriate television...a little censorship goes a long way toward imposing someone else's arbitrary standards on all of us...and toward erasing precious First Amendment freedoms."[129] Charren contends that education, not regulation, is the key to reducing the level of violence in society.

In the absence of any realistic plan for the abolition of government regulation, an existing alternative proposal to the current V-chip plan does appear to be a more logical choice--and is also gathering strong support from the television industry. In August, 1995 the *Wall Street Journal* revealed that as an alternative to the government-imposed policy, the four broadcast networks have established a two million dollar fund to research the possibility of developing a parental-controlled program-by-program blocking device. This would give individual families more editorial control, while preventing the industry from having to rate shows for possible V-chip blockage on a nationwide basis.[130]

Lewis Andrews strongly supports such an approach. He advocates "privatizing" the V-chip in order to give "parents the ability to choose a ratings source that best reflects their own tastes and convictions."[131] He notes that such a system would benefit consumers as well as the broadcasting industry, and that the technology to implement a private approach "already exists."[132] Others agree that privatized ratings are a "very viable option."[133] They also note that such a system would utilize more updated technologies, such as cellular, microwave or other "wireless" modes of mass communication transmission. Certainly a private system would curtail potential constitutional challenges of a government-influenced industry-wide ratings system

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[129] Peggy Charren, "Government Censorship is not the Answer, Education is," *Hofstra Law Rev.* 22:863, 1994, p 863,867.

[130] "Four Networks Set Up Fund to Find V-chip Alternative" (author omitted), *Wall Street Journal*, August 2, 1995, p A8.

[131] Andrews, "Private Ratings," p 82.

[132] Ibid.

[133] Ibid.

Conclusion

The V-chip represents the latest attempt by the government to combat the proliferation of violent content on broadcast television. Conceptually, the device appears to be a reasonable interim technological solution to the problem of television violence. Realistically, the plan will probably eventually fail or be rendered ineffective due to a myriad of potential complications. As Showtime Networks President Matthew Blank describes it, "We have some serious societal issues here. The V-chip seems to be an overly simple solution to a very complicated problem."[134]

Despite a multitude of drawbacks, however, the V-chip Amendment was ushered in as part of the 1996 Telecommunications Act. President Clinton voiced his approval for the plan, declaring that "Philosophically, I don't have a problem with it, because that's a matter of a parent controlling access to programming in the home, and that's okay."[135] His sentiments have been echoed by numerous other legislators who rallied bipartisan support for the Amendment.

The President has also noted, however, that "I don't understand all the technology and details."[136] This statement reveals the most troubling aspect of the V-chip. Political leaders, eager to jump on the antiviolence bandwagon, appear to have let their desire to "do something" about television violence overtake more rational consideration of the true limitations of the V-chip policy. The current V-chip plan simply can't work effectively. Its implications leave it vulnerable to legal challenges, and its complications leave it destined to having limited overall value for consumers. Congress and the FCC should consider reviewing the Amendment and further revising it to allow for some other alternative means of objectionable program blocking. Privatizing the system would certainly appear to be a reasonable alternative.

It has been suggested that the threat of government action goes a long way toward motivating industries to reform unacceptable or unethical business practices. It is likely that the V-chip

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[134] Bellafante, "Locking Out Violence," p 64.

[135] "President Clinton" (author omitted), *Television Digest*, March 28, 1994, p 8.

[136] Ibid.

Amendment will end up more a threat than a workable policy. Whether it can ever actually be fully implemented by the government is an issue in serious question. However, since protecting the welfare of children is at the heart of the V-chip concept, one would only hope that the mere threat of a "mandatory" chip and ratings system will go a long way in "inspiring" the television industry to improve the quality of its programming.

Recent developments. For the moment the "threat" appears to be working. In an uncharacteristically proactive decision, Fox Network's chief Rupert Murdoch declared in the wake of the V-chip legislation's passage that the Fox Network would indeed establish a ratings system for their programming.[137] He also called on all of the other major networks' executives to come together and develop a mutually acceptable system of ratings to attach to their current roster of broadcast programs.[138] Several of the other networks' leaders had originally balked at the idea of developing ratings,[139] but shortly after Murdoch's announcement they acquiesced and by late February had committed at a White House "summit meeting"[140] to establish a uniform ratings system to apply to all broadcast programming--with the exception of news and sports programs.[141]

Almost immediately thereafter, network executives, lead by Motion Pictures Association of America President Jack Valenti, met in a series of intensive strategic meetings to establish workable definitions for "violent and/or otherwise objectionable" material and iron out some of the numerous logistical implementation problems associated with the V-chip plan. The meetings eventually stretched out over several months, and by late May of 1996 some progress had been reported, though a "uniform" ratings system was still far from completed.[142]

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[137] Jane Hall & Sallie Hofmeister, "Fox to Label Programs for Sex and Violence," *Los Angeles Times*, February 16, 1996.

[138] Christopher Stern, "Coming Soon: TV Ratings," *Broadcasting & Cable*, February 19, 1996.

[139] Jenny Hontz, "V-chip Doesn't Ruffle Networks," *Electronic Media*, February 12, 1996.

[140] John Broder & Jane Hall, "President Hears TV Execs Commit to Ratings System," *Los Angeles Times*, March 1, 1996.

[141] This decision may eventually render the V-chip even less effective, considering the amount of violence currently depicted in news and sports programs, and the broad number of programs that may fit under the headings of "news" or "sports."

[142] Joe Flint, "TV Ratings Continue to Vex Exex," *Variety*, May 13-19, 1996.

Identifying Problems with the V-chip

The efforts of Murdoch and the other executives appear for now to be genuine, and their actions would seem to reflect a sincere interest in protecting potentially impressionable viewers from exposure to objectionable content. What remains to be seen over the long-term, however, is how successful they are at establishing a truly workable ratings system. For now such an accomplishment seems to be rather unlikely. But if this monumental task is ever indeed achieved, it will then be of even greater interest to see how "favorably" the industry leaders react and respond when and if the V-chip actually begins to do its job and block "objectionable" programming from some television sets. Will network executives continue to support a policy that adversely affects their precious Nielsen ratings, subsequent advertising support and bottom-line corporate revenues? It could be argued that the greatest dilemma facing the V-chip is that it somehow may actually work--and thus be subject to possible constitutional challenges in halls of the Supreme Court.